

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 I think what I would ask you is to give
2 evidence, either in Indiana or Georgia, of a single
3 person that has come forward and said that they were
4 denied their ability to vote because of these
5 provisions, because in my knowledge, there has not been
6 a single person that came forward.

7 SEN. DAVIS: And again, you know, when you
8 turn to those two laws, they actually provide some
9 exceptions that are not provided in your bill, and so
10 the instances in which people were excluded or
11 prohibited from exercising their constitutional right to
12 vote won't have been challenged in the same was as being
13 proposed for the State of Texas under this particular
14 bill.

15 I want to ask you a question about what
16 happens, as a woman, if I come in to vote and I have my
17 state ID, and the name on my state ID is different than
18 my name on the registrar's certificate, because I've
19 either married or divorced. What will happen in that
20 situation?

21 SEN. FRASER: The question has already
22 been asked twice. We will have someone here from the
23 Secretary of State and the DPS that can answer that
24 question for you.

25 SEN. DAVIS: Okay. Back to the fiscal

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 note, Senator Fraser. The fiscal note --

2 SEN. FRASER: We've also talked about that
3 a couple of times.

4 SEN. DAVIS: Yes, we did, but I want to
5 ask this question. The fiscal note, of course,
6 described the methodology under which the \$2 million
7 figure was compiled, and it specifically states that it
8 left out the cost for training poll workers and election
9 officers. It specifically states that it left out any
10 cost for coordinating voter registration drives. It
11 specifically states that it left out the costs of
12 providing the ID cards, all of that because it is an
13 unknown number.

14 SEN. FRASER: Well, you're making an
15 assumption, and this amount was brought forward by LBB
16 after they talked to the secretary of the State. The
17 Secretary of State, I think, they can answer that
18 question. But I disagree that it's unknown. I believe
19 the Secretary of State and LBB knew exactly what they
20 were doing when they brought it forward, because that's
21 their job.

22 SEN. DAVIS: Well, it literally says that.
23 It says, "The fiscal impact of the revenue loss from the
24 prohibition of DPS to collect a fee is unknown because
25 it is not known how many people would make such a

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000460
JA_000459

TX_00000460

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 request."

2 SEN. FRASER: And that is a correct
3 statement.

4 SEN. DAVIS: And it also says that the
5 cost of coordinating voter registration drives or other
6 activities designed to expand registration is also
7 unknown, and it also says that the cost for
8 responsibilities, the training for people who would be
9 responsible for implementing this is unknown.

10 Now, if I file a bill this session and I'm
11 challenged, based on the fiscal impact of the bill,
12 clearly this session more than any other will be very,
13 very concerned about that. And the LBB has put a
14 statement on it that they really don't know what the
15 cost is, but intuitively we understand there's going to
16 be a cost. We'll probably have a conversation about
17 that. Right?

18 SEN. FRASER: And I think the conversation
19 you should have should be the Secretary of State in
20 discussing the HAVA funds that the federal government
21 has provided to both Indiana and Georgia for the
22 implementation of their law that we believe will be
23 approved for that, but it has not been approved, because
24 HAVA has clearly said the bill has to be passed before
25 they could pass judgment on whether those funds could be

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000461
JA_000460

TX_00000461

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 used. That amount of money is setting in the Secretary
2 of State's office now, and I think that would be a good
3 question to ask them.

4 SEN. DAVIS: Let me ask a question about
5 the bill itself. I'm a little confused about a section.
6 This is on Page 5. I'm reading from Section 8,
7 Subsection (a). "If the voter's address is omitted from
8 the precinct list under Section 18.005(c), the officer
9 shall ask the voter if the voter's residence, if listed,
10 on ID presented by the voter under Section 63.001(b) is
11 current and whether the voter has changed residence
12 within the county." What if the answer is "No," what is
13 the election worker to do at that point?

14 SEN. FRASER: That's a perfect question to
15 ask the Secretary of State.

16 SEN. DAVIS: It's your bill, though,
17 Senator Fraser, and the language is here. And there is
18 no guidance for someone -- if we were to vote on a bill
19 like this, how are we to know how a situation like that
20 would be handled if it's not addressed in the bill?

21 SEN. FRASER: Senator, I'm sure you're
22 aware through -- the past session, you were here.
23 You're reading current law. There is one change there
24 where we insert "presented by the voter under Section
25 63.001," which is the description I think of the photo

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000462
JA_000461

TX_00000462

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 ID. But basically that is current law, and I think it
2 would be a good thing to ask the Secretary of State.
3 Everything you've read is current law.

4 SEN. DAVIS: Well, it's not current law,
5 because it changes it from the difference being on the
6 voter registration certificate versus being on the
7 person's ID. What I'm concerned about is that if I come
8 in with an ID and my address has changed and I have the
9 correct address on the precinct list that's different
10 than what's on my ID, that a poll worker might actually
11 reject my opportunity to vote, because the address on my
12 ID is showing differently than is showing on the
13 precinct list.

14 SEN. FRASER: And the good thing about
15 that is, these HAVA funds that we're going to request
16 will also train poll workers to make sure they
17 understand it. The ruling would be made by the
18 Secretary of State, and they will train them how to do
19 that, and I feel very comfortable that you would get to
20 vote.

21 SEN. DAVIS: Well, I'm glad you feel very
22 comfortable, Senator Fraser. I remain very, very
23 concerned about the number of people under the very
24 severe restrictions that are imposed by the bill you
25 have proposed. I'm very concerned about the number of

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000463
JA_000462

TX_00000463

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 people who may be impacted by it. And I understand and
2 agree with you, that assuring that voter fraud is not
3 occurring is very, very important, and it's a
4 conversation we should be having and a cure we should
5 all attempt to find.

6 But in the process, I'm very afraid that
7 we're going to wind up disenfranchising people who
8 currently are legal citizens in the State of Texas who
9 have the legal opportunity to vote and are going to be
10 denied the right for that right under your bill as it's
11 proposed today.

12 SEN. FRASER: And I believe our bill will
13 be approved by the U.S. Supreme Court and approved in
14 Section 5 by the Department of Justice.

15 Thank you.

16 SEN. DAVIS: Thank you.

17 CHAIRMAN DUNCAN: Senator West.

18 SEN. WEST: Thank you very much,
19 Mr. Chairman. I would like to ask the author a couple
20 of questions.

21 Senator Fraser, good morning, sir.

22 SEN. FRASER: I think we commented about
23 the Barry White voice last year. I was reading the
24 deposition.

25 SEN. WEST: That was actually Billy Ocean,

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 which both of us like.

2 SEN. FRASER: Both of us do like. I
3 agree.

4 SEN. WEST: Now, we're not going to have
5 any unfunded mandates on counties, are we? This bill
6 would not occasion any unfunded mandates on counties.

7 SEN. FRASER: This bill?

8 SEN. WEST: Yes, this bill that you're
9 proposing. The counties will not have to pick up any of
10 this cost -- is that correct -- because that would be an
11 unfunded mandate? And I know you are not for unfunded
12 mandates. Right?

13 SEN. FRASER: I am not for -- I'm opposed
14 to unfunded mandate, but I'm not advised of whether it
15 would be --

16 SEN. WEST: So you can tell counties, you
17 can tell all county officials in the sound of my voice
18 and your voice that there will be no unfunded mandates
19 in this bill and counties will not have to spend any
20 money that they don't have right now to implement this
21 particular bill. Correct?

22 SEN. FRASER: I had my largest county,
23 Bell County, in my office last week, and I told Judge
24 Burrows at that time that I'm opposed to unfunded
25 mandate and, you know, we'll do everything we can to

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000465
JA_000464

TX_00000465

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 keep them off the counties.

2 SEN. WEST: So you're telling county
3 officials there are no unfunded mandates coming from
4 this bill?

5 SEN. FRASER: I didn't say that.

6 SEN. WEST: So there may be unfunded
7 mandates coming from this bill?

8 SEN. FRASER: Not advised.

9 SEN. WEST: So let me back up. And I want
10 to pursue this just a minute now. You philosophically
11 are not for unfunded mandates. Right?

12 SEN. FRASER: That's a correct statement.

13 SEN. WEST: That is a correct statement.
14 And you, by your action in previous legislatures, have
15 made certain that you have not passed any bills that
16 would provide for unfunded mandates on the counties.
17 Right?

18 SEN. FRASER: I have made an effort not to
19 vote, if possible.

20 SEN. WEST: Okay. Now, in this particular
21 bill, it is your objective to make certain that there
22 are no unfunded mandates on any county in this entire
23 state. Is that correct?

24 SEN. FRASER: I'm not advised.

25 SEN. WEST: You're not advised as to what

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000466
JA_000465

TX_00000466

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 your objective is?

2 SEN. FRASER: No. My philosophy is that I
3 do everything I can trying to keep any unfunded
4 mandates. I'm not advised of how they would be
5 impacted.

6 SEN. WEST: All right. So you can't tell
7 county officials that there are not unfunded mandates in
8 this bill?

9 SEN. FRASER: Well, as you know, a lot of
10 times there's unintended consequences, and we don't know
11 until it's passed, the impact.

12 SEN. WEST: It was your bill, though.
13 This is your bill. You don't know --

14 SEN. FRASER: My bill says that --

15 SEN. WEST: I'm just --

16 SEN. FRASER: -- when you walk into the --

17 SEN. WEST: I'm just trying to find out
18 whether or not county officials are going to have to
19 pick up any of the cost in terms of putting this bill
20 into effect. You tell me. Tell the county officials
21 that there are no unfunded mandates in this bill. Tell
22 them.

23 SEN. FRASER: I'm not advised.

24 SEN. WEST: So what you're telling county
25 officials, that you're not advised as to whether or not

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000467
JA_000466

TX_00000467

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 there is any unfunded mandates in this bill. Correct?

2 SEN. FRASER: I'm sure that there's
3 probably an expert witness coming. You probably can ask
4 a question. Someone, or someone may be coming to
5 testify about that, but --

6 SEN. WEST: All right. Let's talk about
7 expert witnesses. Did you ask for the fiscal note in
8 this bill?

9 SEN. FRASER: I'm sorry?

10 SEN. WEST: Did you ask for the fiscal
11 analysis in this bill -- the fiscal note?

12 SEN. FRASER: No. I think the committee
13 chairman did. I believe the -- there is a fiscal note
14 requested. I did not request it.

15 SEN. WEST: Did you review the fiscal
16 note?

17 SEN. FRASER: The fiscal note was handed
18 to me. I read the fiscal note. I guess reviewing it,
19 yes, I read it.

20 SEN. WEST: Okay. Go to the local
21 government impact section of it, Page 2 of 3, down at
22 the bottom.

23 SEN. FRASER: Yes.

24 SEN. WEST: Okay. Second paragraph,
25 "According to Texas Association of Counties, Tarrant

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000468
JA_000467

TX_00000468

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 County anticipated a one-time cost to reprint
2 provisional balloting materials and provides new
3 notices, of \$8,000. Bexar County stated that due to
4 limited space on current registration certificate, large
5 cards would be necessary, resulting in additional costs
6 for cards, printing and postage of \$381,000," et cetera.

7 Is that a cost that is going to be picked
8 up by the state or is that going to be a cost that's
9 going to be occasioned by the counties?

10 SEN. FRASER: Senator, you're on the
11 Finance Committee. You helped with proposing the draft
12 bill, and then you will be voting on the bill coming out
13 of the committee that you send to us, so I think you
14 would be better to answer that. My job is to pass the
15 bill. The implementation of the bill, then, and the
16 cost will have to be considered by the Finance
17 Committee.

18 SEN. WEST: So let me make sure that I
19 understand this, then. The answer to that question is,
20 you don't know. So if we don't appropriate that
21 money -- that being the Legislature doesn't appropriate
22 that money -- then that's an unfunded mandate. Correct?

23 SEN. FRASER: My job is to bring the bill
24 forward, put it before the membership, advise what the
25 bill will do. And then if there's a fiscal impact --

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000469
JA_000468

TX_00000469

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WEST: Advise what the bill will do?

2 SEN. FRASER: The bill is going --

3 SEN. WEST: Is that your job? Didn't you
4 just say part of your job is to advise what it will do?

5 SEN. FRASER: Yes. What it's going to do
6 is that when you walk into --

7 (Simultaneous discussion)

8 SEN. WEST: So I'm asking you --

9 SEN. FRASER: -- in Oak Cliff and want to
10 vote, you're going to have to show your smiling face --

11 SEN. WEST: And I'm asking what it will
12 do. I'm asking what it will do in terms of unfunded
13 mandates right now.

14 SEN. FRASER: Not advised about unfunded
15 mandates.

16 SEN. WEST: Not advised. So where will
17 the counties get this money under the local impact --

18 (Simultaneous discussion)

19 SEN. FRASER: And I think that's going to
20 be your responsibility as a member of Finance.

21 SEN. WEST: Do you know -- then let me ask
22 this question. Do you know where the county will get
23 the money from, counties will get that money from?
24 Under the local government impact, do you know where the
25 counties will get that money from?

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000470
JA_000469

TX_00000470

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: You're asking me a question.
2 No, I do not know --

3 SEN. WEST: Okay. Thank you. Now, as it
4 relates to -- this bill, plus the costs that we don't
5 know, you've said repeatedly that it's going to cost at
6 least \$2 million. And we know, based on the fiscal
7 note, that there's still some undetermined cost.

8 SEN. FRASER: I have not said one time
9 that it's going to cost \$2 million. I've said there is
10 a fiscal note that has been projected, but there are
11 dollars in the HAVA fund, federal funds, that are
12 setting in the Secretary of State's office that far
13 exceed that number. And I think the Secretary of State
14 probably will let us know what that is. So there is a
15 pot of money there that we believe will help offset some
16 of the associated expenses. I do not believe the cost
17 will be \$2 million.

18 SEN. WEST: Now, the HAVA funds, is that
19 general revenue or is that federal funds?

20 SEN. FRASER: Federal funds.

21 SEN. WEST: Okay.

22 SEN. FRASER: And I believe I'm right, but
23 again, I would ask that question of the Secretary of
24 State if I were you.

25 SEN. WEST: Okay. Well, as it relates to

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 general revenue, now, as I understand and as I've used
2 the term "general revenue" over the last 17 years I've
3 been here -- and maybe Senator Ogden or someone else on
4 the Finance Committee can correct me if I'm wrong --
5 general revenue basically means state funds -- right --
6 monies that we get from state --

7 SEN. FRASER: You are the member of
8 Finance.

9 SEN. WEST: Well, let me -- general
10 revenue -- okay. Well, then, take my word for it;
11 that's what it means. It means monies that we receive
12 from tax revenues in the State of Texas, not HAVA funds
13 but revenues from taxes and revenues that are -- and
14 sources of revenues that we get from citizens in the
15 State of Texas. And that's what this deals with, it is
16 specifically general revenue-related funds, not HAVA
17 funds. HAVA funds are federal funds. So let's make
18 sure -- in terms of my questions, that's the distinction
19 that I'm making.

20 SEN. FRASER: Well, the distinction you're
21 not making is that if the HAVA funds are not available,
22 yes, there would be a cost to the state. But if HAVA
23 funds are available, it would offset that cost to the
24 state.

25 SEN. WEST: Where do you see that in this

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 fiscal note?

2 SEN. FRASER: It's not in that. That's
3 conversation --

4 SEN. WEST: Then how are you making that
5 statement, if it's not in this fiscal note? There's
6 nothing in the fiscal note that says that.

7 SEN. FRASER: Mr. Chairman?

8 CHAIRMAN DUNCAN: Senator Fraser.

9 SEN. FRASER: Could I please enter into
10 the record -- this is information coming that is
11 addressing the questions he's talked about addressing
12 HAVA. I would like to have this added as an exhibit,
13 please.

14 CHAIRMAN DUNCAN: Bring it forward to the
15 Secretary, if you would, and we'll need to --

16 SEN. WEST: May we approach on it, Your
17 Honor -- Your Honor -- may we approach on it,
18 Mr. Chairman?

19 CHAIRMAN DUNCAN: You may.

20 (Brief pause)

21 SEN. FRASER: Mr. President?

22 CHAIRMAN DUNCAN: Senator Fraser, if
23 you'll hold on just a minute. I'm going to allow --
24 we're already premarked a couple of exhibits. And so
25 just in order to keep the record flowing correctly, I'm

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 going to recognize Sen. Van de Putte at this point to
2 introduce a motion in writing.

3 Senator Van de Putte.

4 SEN. VAN de PUTTE: Thank you,
5 Mr. Chairman. And thank you, Chairman, and the bill
6 author, to yield so that I can move that all actions
7 taken by the Senate on the 81st Legislature on Senate
8 Bill 362, as contained in the official Senate Journal,
9 be included in the record as Exhibit 2. The Senate
10 Journal excerpts shall include motions, remarks, written
11 responses, exhibits and any other material directly
12 related to Senate Bill 362.

13 Mr. Chairman, I move this motion in
14 writing.

15 CHAIRMAN DUNCAN: Members, you've heard
16 the motion. Is there any objection?

17 The Chair hears none. Exhibit 2 will be
18 received into the record.

19 (Exhibit No. 2 marked and admitted)

20 CHAIRMAN DUNCAN: Now, Senator Fraser,
21 you're recognized on Exhibit 3, I believe.

22 SEN. FRASER: And, members, just to
23 clarify, what we're entering here is the answer to the
24 question that we've been discussing. It is a letter
25 from the Secretary of State, Hope Andrade, saying that

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000474
JA_000473

TX_00000474

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 the \$2 million we're discussing, there is sufficient
2 HAVA funds allocated to voter education and poll worker
3 training that would cover this expense that is
4 available.

5 Also, in addition to your question, we
6 have been advised by other counties saying they do not
7 expect more than a nominal cost for counties, existing
8 staff and resources should be sufficient to implement
9 the new law.

10 And I would request this be entered into
11 the record.

12 CHAIRMAN DUNCAN: Members, Senator Fraser
13 sends up Exhibit No. 3. It will be received into the
14 record.

15 (Exhibit No. 3 marked and admitted)

16 CHAIRMAN DUNCAN: Senator Fraser, you
17 still have the floor. Senator West, Senator has yielded
18 to you for questions.

19 And before we do that, before we do that,
20 let me make an announcement. We typically adjourn 30
21 minutes ahead of session in order to allow the sergeants
22 and secretary to prepare for the Senate session. So at
23 10:30, I'll recognize a member on a motion to rise and
24 report progress. So if you can watch the clock. It
25 doesn't mean we're going to cut you off, it just means

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000475
JA_000474

TX_00000475

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 at that point in time, we'll have to cease until we
2 finish the Senate session.

3 SEN. WEST: Thank you, Mr. Chairman.
4 Senator Fraser?

5 SEN. FRASER: Yes.

6 SEN. WEST: Okay. So you've admitted this
7 as part of the record. So these are federal funds and
8 not general revenue. Is that correct?

9 SEN. FRASER: No. Those are federal
10 funds, as I understand it, yes.

11 SEN. WEST: It's not general revenue?

12 SEN. FRASER: Yes.

13 SEN. WEST: Okay. And the certainty of it
14 is still up in the air. Based on this document from the
15 Secretary of State, they still have to confirm that the
16 funds can, in fact, be used for this particular purpose?

17 SEN. FRASER: That is correct, and that's
18 what I advised earlier, is that HAVA has said until the
19 passage of the bill, they would not rule, but the funds
20 have been used before in Indiana and Georgia, and it is
21 expected that we will be able to use them here.

22 SEN. WEST: Okay. Now, you had made
23 mention also that you've talked to some other counties
24 and that there won't be any unfunded mandates on those
25 counties?

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000476
JA_000475

TX_00000476

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: You didn't read the rest of
2 the fiscal note, is that Comal County reported the costs
3 associated with the provision would be absorbed within
4 existing revenues. You gave one example, but I think
5 most of the counties expect this to be a nominal cost
6 and that they have existing staff and resources --

7 SEN. WEST: And then --

8 SEN. FRASER: To handle this.

9 SEN. WEST: I'm sorry. You said most of
10 the counties. You've given examples of three. You said
11 most of the counties. Is --

12 SEN. FRASER: Do you have evidence from
13 others? I --

14 SEN. WEST: There's 254 counties, and
15 you've just made a statement that most of the counties
16 have said they can absorb it within their normal --

17 SEN. FRASER: I said I do not expect it to
18 be more than a nominal cost.

19 SEN. WEST: But otherwise -- now Bexar
20 County is saying it's going to be over \$380,000. That's
21 not a nominal cost, is it?

22 SEN. FRASER: Well, I guess that's
23 something you should consider in the Finance Committee.
24 They have a huge budget, and in --

25 SEN. WEST: Who has a huge budget?

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: The large counties.

2 SEN. WEST: I'm sorry?

3 SEN. FRASER: The large counties.

4 SEN. WEST: They have huge budgets?

5 SEN. FRASER: Yes. And you will have to
6 make that decision.

7 SEN. WEST: They don't have budget
8 shortfalls in large counties?

9 SEN. FRASER: If I were you, then I would
10 discuss that with the chairman --

11 SEN. WEST: But the reality is, the
12 reality is, is that if -- and I won't belabor the
13 point -- the reality is, if those counties will have to
14 fund this out of existing revenue from their budgets,
15 it's going to be an unfunded mandate on them if the
16 state does not appropriate the money. Is that correct?

17 SEN. FRASER: Yes. It is expected that it
18 will be a nominal cost for counties. Existing staff and
19 resources should be sufficient to implement the new law.

20 SEN. WEST: And where are you getting that
21 from?

22 SEN. FRASER: From the sheet here. If
23 you'll follow, Comal County reported the cost associated
24 with the provision of the bill should be absorbed within
25 existing revenues.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000478
JA_000477

TX_00000478

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WEST: But that's Comal County.
2 That's not Travis County, that's not Harris County,
3 that's not Bell County or any of the other counties.
4 That's Comal County. Comal County is not indicative of
5 all of the counties in the State of Texas, is it?

6 SEN. FRASER: I think what you should do,
7 then, is get 254 counties, if you'll call them all and
8 get that number and --

9 SEN. WEST: Okay. Well, I mean, it's your
10 bill.

11 (Simultaneous discussion)

12 SEN. FRASER: -- Finance.

13 SEN. WEST: And the reality is, if it's an
14 unfunded mandate, you're responsible for it if this bill
15 passes. Now, let me ask you this: The \$2 million, the
16 \$2 million that you're talking about, if it does not
17 come from HAVA funds, then it's going to have to come
18 from general revenue. Is that correct?

19 SEN. FRASER: I'm not advised. I'm not a
20 member of Finance; you are. And I think that would be a
21 decision of Finance.

22 SEN. WEST: Let's talk about just sections
23 of the bill. Specifically, the issue concerning -- and
24 I think you and Senator Davis have gone over this. And
25 I'm on page, in Section 7 of the bill, specifically (c)

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 and (d). Let me know when you're with me on it.

2 SEN. FRASER: What page are you on?

3 SEN. WEST: I'm in Section 7 of the bill.

4 SEN. FRASER: That's Section 11.

5 Six, 7. Okay. Got it. Okay.

6 SEN. WEST: Okay. As relates to -- let's
7 talk about the election officer. Now, what's the
8 definition of the election officer?

9 SEN. FRASER: That would be a good
10 question to the Secretary of State.

11 SEN. WEST: So you don't know what an
12 election officer is?

13 SEN. FRASER: I've got a witness, you
14 know, an expert witness coming in that -- you know, I
15 think I do, but it would be improper for me to answer.
16 I've got an expert person you can ask.

17 SEN. WEST: Let me ask this: Did you rely
18 on the Secretary of State's office in helping to draft
19 this bill?

20 SEN. FRASER: We have had a lot of
21 discussion with the Secretary of State's office over the
22 last three years in the process of drafting bills.

23 SEN. WEST: So you don't know what an
24 election officer is?

25 SEN. FRASER: I didn't say I don't know

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000480
JA_000479

TX_00000480

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 what the election officer is. But the Secretary of
2 State is coming, and it would be improper for me to
3 answer that if we have an expert witness that can answer
4 it, you know, for sure.

5 SEN. WEST: So it would be improper for
6 you to answer what an election officer is?

7 SEN. FRASER: No. We've got an expert
8 witness that would be the better person to ask.

9 SEN. WEST: Okay. In terms of what an
10 election officer is in your bill. Okay.

11 As it relates to Section (d), you say
12 that, "If the voter's name is on the precinct list of
13 registered voters and the voter's identity can be
14 verified from the documentation presented under
15 Subsection (b), the voter shall be accepted for voting."
16 But if, indeed -- and the election officer is to make
17 that determination. Is that correct?

18 SEN. FRASER: Again, that's a great
19 question to ask the Secretary of State's office.

20 SEN. WEST: How does your bill work? Tell
21 us how your bill works.

22 SEN. FRASER: You know, it's a --
23 (Simultaneous discussion)

24 SEN. WEST: I mean, would that be a great
25 question to ask the Secretary of State?

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000481
JA_000480

TX_00000481

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: It's a great concept. You
2 walk in in Oak Cliff to vote. And if you're in the
3 right precinct and your name is on the list and you pull
4 out your driver's license and you show it to them and
5 your smiling face on your driver's license matches
6 you --

7 SEN. WEST: Well, let me --

8 SEN. FRASER: -- I think they're going to
9 hand you a ballot and allow you to vote.

10 SEN. WEST: Then let me ask you this: My
11 last name is spelled W-e-s-t. Suppose there's some
12 typographical error where they spelled it W-e-s, but
13 it's me. I have an ID, but my name is misspelled. What
14 happens then? I have to vote a provisional ballot?

15 SEN. FRASER: I think that would be a good
16 question for the Secretary of State, because I think
17 they will cover that in the training with the election
18 officials you're discussing.

19 SEN. WEST: What is your, intent, Senator?

20 SEN. FRASER: My intent is that the
21 Secretary of State would make a ruling on that.

22 SEN. WEST: Under those circumstances,
23 what would be your intent, as the author of this bill?
24 If my name is W-e-s-t but there is a typographical error
25 someplace and it's W-e-s, what is the intent. Give the

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000482
JA_000481

TX_00000482

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 record your intent as the author of this bill.

2 SEN. FRASER: My intent, as the author of
3 the bill, is that I'm going to give the authorization to
4 the Secretary Of State to make a ruling and train the
5 poll workers so that it would be clear that they're
6 allowing the proper person to vote.

7 SEN. WEST: They're allowing the proper
8 person to vote. So in that circumstance, would it be up
9 to the election officer there to determine whether I'm
10 the same person --

11 SEN. FRASER: I think it would be up to
12 the Secretary of State --

13 SEN. WEST: Let me finish; let me finish.

14 -- whose last name is W-e-s, but my
15 identification says W-e-s-t, and I'm presenting that, it
16 would be up to that election worker. Right?

17 SEN. FRASER: I think that would be a
18 great question to ask the Secretary of State.

19 SEN. WEST: But what's your intent,
20 though? I'm just asking your intent. I can't ask the
21 Secretary of the Senate what's your -- I mean, Secretary
22 of State what your intent is.

23 SEN. FRASER: I intend to --

24 (Simultaneous discussion)

25 SEN. WEST: You've got to manifest your

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000483
JA_000482

TX_00000483

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 intent so the Secretary of State will know, have some
2 guidance in terms of how this bill should be
3 implemented. Don't you agree, as the author of the
4 bill?

5 SEN. FRASER: My intent is to give the
6 Secretary of State the authorization to determine the
7 rules, train the poll workers. They would make a
8 determination on that.

9 SEN. WEST: So the poll worker in this
10 instance would be the election officer? I have to ask
11 the Secretary of State?

12 SEN. FRASER: You need to ask the
13 secretary of State.

14 SEN. WEST: Okay. Poll workers, let's
15 talk about poll workers. How much do we pay poll
16 workers?

17 SEN. FRASER: That would be a good
18 question to ask the Secretary of State.

19 SEN. WEST: Okay. What's the minimum
20 wage? I would ask the Secretary of State?

21 SEN. FRASER: What does that have to do
22 with this bill?

23 SEN. WEST: I mean, I'm just trying to
24 understand exactly how much we pay our poll workers.

25 SEN. FRASER: Again, Senator, you're

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 asking the question. I would suspect probably poll
2 workers may be paid different from one county to
3 another. And it's an area -- I think that that's a good
4 question of the Secretary of State.

5 SEN. WEST: Okay. Now, you keep referring
6 to the Secretary of State. But in the bill analysis,
7 doesn't it also say that this bill does not expressly
8 grant any additional rulemaking authority to the state
9 office -- to a state officer, institution or agency?
10 Does it say that? Do I have to ask the Secretary of
11 State about that also?

12 SEN. FRASER: Senator, I'm sorry. I'm not
13 advised. I do not have a bill analysis. Do you have
14 one in front of you you would like show me?

15 SEN. WEST: I do. Look under "Rulemaking
16 Authority."

17 SEN. FRASER: We don't have it.

18 SEN. WEST: You don't have a -- okay. In
19 the bill analysis, what it says is that this bill does
20 not expressly grant any additional rulemaking authority
21 to a state officer, institution or agency?

22 SEN. FRASER: Isn't that standard language
23 that's put on every bill?

24 SEN. WEST: I don't know. But what I'm
25 asking you is --

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000485
JA_000484

TX_00000485

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: You don't know?

2 SEN. WEST: -- given the fact that you are
3 deferring everything to the Secretary of State, are you
4 going to put some additional language in the bill that
5 provides the Secretary of State some additional
6 rulemaking?

7 SEN. FRASER: I think the key word there,
8 this does not provide any additional. I think it's
9 assumed that the Secretary of State has that ability
10 under current ability we've given the Secretary of
11 State.

12 SEN. WEST: Let me ask this, Senator
13 Fraser. Okay. All right. You can't give me what your
14 intent is in that situation. I'll just take that for
15 granted.

16 You have made reference to the Carter-
17 Baker Commission and recommendations. Is that correct?

18 SEN. FRASER: I want to make an
19 observation here for Senator Whitmire. If you'll look
20 up, it is filling up, so there must be someone concerned
21 about the legislation we're talking about.

22 What was the question?

23 SEN. WHITMIRE: Lubbock.

24 SEN. FRASER: While Senator West gathers
25 himself, I'll tell you that those are the great people

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000486
JA_000485

TX_00000486

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 from West Texas, the City of Lubbock. And they are
2 great voters and very concerned. And I've seen the
3 polling data that shows that West Texas was the highest
4 percentage of people that believe that they should show
5 their ID whenever they show up to vote. I'm really glad
6 to have them at my back.

7 Go ahead.

8 SEN. WEST: Do I need to ask the Secretary
9 of State about that, too, or what?

10 SEN. FRASER: You could. These people
11 respect the opinion of the Secretary of State, and they
12 probably have already asked.

13 SEN. WEST: Okay. Senator Fraser, a
14 couple of things. As it relates to the Carter-Baker
15 Commission, you've talked about the recommendations, and
16 you are following the recommendations that came out of
17 that commission. Is that correct?

18 SEN. FRASER: No. I filed a piece of
19 legislation that I believe will be approved by the U.S.
20 Supreme Court and will be cleared by the Department of
21 Justice.

22 SEN. WEST: Okay. Let me ask you this:
23 Have you made mention of the Carter-Baker Commission?

24 SEN. FRASER: I have made references a
25 couple of times of things that they mentioned in their

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000487
JA_000486

TX_00000487

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 report.

2 SEN. WEST: Of the recommendations that
3 they mentioned, did you incorporate any of those in your
4 bill?

5 SEN. FRASER: My bill is a bill I believe
6 that will be approved by the U.S. Supreme Court and be
7 approved by the Department of Justice and will --

8 SEN. WEST: So the answer to the question
9 is what? Did you incorporate any of the recommendations
10 from the Carter-Baker Commission in your bill?

11 SEN. FRASER: The bill that we're filing
12 is a bill that I believe will be approved by the U.S.
13 Supreme Court and be approved by the Department of
14 Justice.

15 SEN. WEST: So the answer to the question
16 is?

17 SEN. FRASER: That we're filing a bill
18 that's going to be approved by the U.S. Supreme Court.

19 SEN. WEST: Well, that wasn't the question
20 asked. The question asked, did you incorporate any of
21 the recommendations in the Carter-Baker Commission in
22 your bill? That was the question I asked.

23 SEN. FRASER: I read the Carter-Baker
24 report. And you know, obviously, I'm aware of the
25 things they're recommending. But the bill that I've

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000488
JA_000487

TX_00000488

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 drafted is based on the fact that whenever you walk in
2 to vote, I want you to show an ID proving you are who
3 you say you are, and I believe that bill will be
4 approved by the U.S. Supreme Court.

5 SEN. WEST: So you don't know whether you
6 did or not. Is that the answer to my question?

7 SEN. FRASER: My answer is, the bill that
8 we filed, that we brought forward, is a bill that
9 clearly says that whenever you vote, you need to show
10 your ID, and I believe that bill will be approved by the
11 U.S. Supreme Court.

12 SEN. WEST: Was that one of the
13 recommendations of the commission?

14 SEN. FRASER: I'm not advised.

15 SEN. WEST: But you made reference to it
16 as a predicate for why this particular bill --

17 SEN. FRASER: No. I made a reference to
18 comments that were made by the Carter-Baker Commission.

19 SEN. WEST: What were those comments that
20 you made?

21 SEN. FRASER: If you want to go over it
22 again, I can do my opening statement again if you would
23 like.

24 SEN. WEST: No, just the comments from the
25 Carter-Baker Commission.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000489
JA_000488

TX_00000489

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: Carter-Baker Commission,
2 bipartisan -- Carter-Baker Commission affirms the
3 danger. Elections are at the heart of the democracy.
4 "Americans are losing confidence in the fairness of
5 elections, and while we do not face a crisis today, we
6 need to address the problems of our electoral system."

7 The Carter-Baker Commission concluded at
8 the end of the day, there's considerable national
9 evidence of in-person voter fraud. And regardless of
10 whether one believes that voter impersonation is
11 widespread or relatively rare, there can be no serious
12 dispute that it is a real effect, can be substantial
13 because, in a close election, even a small amount of
14 fraud could make a margin of difference.

15 SEN. WEST: Okay.

16 SEN. FRASER: That was my reference to the
17 commission.

18 SEN. WEST: Okay. Did they also
19 recommend, though, that we should use some sort of
20 mobile strategy, mobile strategy in order to get
21 vehicles out to different locations to --

22 SEN. FRASER: I didn't reference that.

23 SEN. WEST: No. I said did they also
24 recommend that, though?

25 SEN. FRASER: I'm sorry. I'm not advised.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000490
JA_000489

TX_00000490

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 I didn't reference that.

2 SEN. WEST: Okay. But if they did make a
3 recommendation that we should do everything we can to
4 make certain people are registered to vote, you would
5 support that, wouldn't you?

6 SEN. FRASER: The bill I'm filing, that
7 I'm filing today --

8 SEN. WEST: No. That's not --

9 SEN. FRASER: -- very clearly says that I
10 think it will be approved by the U.S. Supreme Court and
11 approved by the Department of Justice.

12 SEN. WEST: And we need to ask the
13 Secretary of State. Okay. I understand that. But what
14 I'm asking is, you would agree that if we are trying to,
15 quote unquote, purify our election process, that we
16 should do everything we can in order to make certain
17 people are registered to vote. Wouldn't you agree with
18 that?

19 SEN. FRASER: I think probably when the --

20 SEN. WEST: Well, you would not agree with
21 that?

22 SEN. FRASER: If you'll allow me to make a
23 statement.

24 SEN. WEST: Sure.

25 SEN. FRASER: I think when DPS comes up, I

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000491
JA_000490

TX_00000491

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 think there's going to be a lot of discussion about what
2 can they do in the form of either making it easy for
3 people to sign up and/or even, maybe even a temporary
4 van for an area that Senator Uresti had talked about in
5 far West Texas. Those people that are, you know,
6 100 miles from the nearest location, maybe there's a way
7 to accommodate that. So I think the answer to your
8 question is, I'm anxious to hear the response of the
9 Department of Safety of what they're either able and/or
10 willing to do.

11 SEN. WEST: And let's assume that they are
12 able and willing to do more than your bill permits.
13 Would you support an amendment that would enable them to
14 do what they're able to do in order to --

15 SEN. FRASER: Have you prefiled that
16 amendment and have I had a chance to look at it?

17 SEN. WEST: No. I'm asking you a question
18 right now.

19 SEN. FRASER: And I'm asking you, have you
20 filed your amendment?

21 SEN. WEST: Well, you basically said, sir,
22 that you have to wait -- we have to wait until you hear
23 their testimony before we can make a determination as to
24 whether or not they're --

25 SEN. FRASER: No, I can't tell you --

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000492
JA_000491

TX_00000492

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WEST: Well, let me finish; let me
2 finish, please. Let me finish.

3 What you just said a second ago is, is
4 that you want to defer to the Department of Public
5 Safety to make a determination as to whether or not
6 there are things that they can do in order to make
7 certain they're doing the outreach that's necessary to
8 accommodate just some of the concerns that senator
9 Uresti had.

10 SEN. FRASER: I didn't say that at all. I
11 said --

12 SEN. WEST: What did you say?

13 SEN. FRASER: -- I'm anxious to hear their
14 testimony when they're asked and their response of what
15 they are able, capable of doing for that. And then once
16 you do that, if you want to offer an amendment, I will
17 look at every amendment offered. If you'll got one, you
18 need to go ahead and file it.

19 SEN. WEST: Let me give you a
20 hypothetical, then. If the Department says that they
21 can do much more than your bill currently allows them to
22 do, would you support an amendment that would give them
23 the resources or give them the rulemaking authority to
24 be able to do the outreach?

25 SEN. FRASER: I'm probably not going to

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000493
JA_000492

TX_00000493

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 work in hypotheticals right now. Let's wait until we
2 hear from them. Then we'll determine that.

3 SEN. WEST: Okay. Well, I'm going to make
4 sure and I'll put that down.

5 I want to talk about seniors just for one
6 second. How did you come up with 70 years old? Well,
7 hold on. Let me ask you this: Is there a definition, a
8 federal definition under any of our laws, U.S. laws or
9 either state laws, that defines a senior citizen?

10 SEN. FRASER: It was really actually a
11 very complicated system that we came up with this. It
12 actually was recommended by a democratic member that
13 said, "If you'll put that in the bill, that would help
14 five or six of us vote for the bill." So that was
15 recommended originally to be put in the bill. But the
16 answer to your question is, I'm 61 years old, and I
17 think you're just about as old as I am.

18 SEN. WEST: No, I'm younger; I'm younger
19 than you are. I'm younger.

20 SEN. FRASER: Oh, you're 60 -- 59?

21 SEN. WEST: I'm younger than you are.

22 SEN. FRASER: How old are you, sir?

23 SEN. WEST: I'm 58 years old.

24 SEN. FRASER: Okay. Of the people
25 (laughter) --

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000494
JA_000493

TX_00000494

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WEST: Ask the Secretary. We're not
2 going to --

3 SEN. FRASER: I want to see your photo ID.

4 SEN. WEST: Ask the Secretary.

5 SEN. FRASER: I need a photo ID.

6 SEN. WEST: Got to ask the Secretary.

7 SEN. FRASER: And here, this is a good
8 observation. I live in an area, a retirement community,
9 and I know a lot of the people in that area. And the
10 people that are my age, that are 61 up to 65 up to 70, I
11 think are still very, very capable. It is not an
12 inconvenience on them. There's a lot of people that are
13 70 --

14 SEN. WEST: And what community?

15 SEN. FRASER: You want me to answer the
16 question?

17 SEN. WEST: I just didn't hear. You said
18 you lived in a retirement --

19 SEN. FRASER: I live in an area where
20 there's a lot of retired people.

21 SEN. WEST: People. Okay.

22 SEN. FRASER: Yes, like myself.

23 SEN. WEST: Yes.

24 SEN. FRASER: Those people that I know,
25 people that are up to that age, it would not be an

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000495
JA_000494

TX_00000495

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 inconvenience for them, and they're still very, very
2 active. Actually, I've got numerous people that I play
3 golf with often that are above 70 and up to 80. So,
4 actually, the number probably could have been higher,
5 but that number we thought was a fair number and
6 represented a number that we could offer up as a very
7 fair number for an exception to this bill.

8 SEN. WEST: Let me make sure I understand
9 your answer to that question. You're saying that the
10 age 70 is predicated on people that you know that live
11 in your community?

12 SEN. FRASER: It is predicated by a
13 democrat member offering me that up as a number, that if
14 we would put that in the bill, there would be five or
15 six Democrats that would vote for the bill. That's the
16 answer to my question.

17 SEN. WEST: Okay. But you added a lot of
18 other stuff after that. What was all that other stuff?

19 SEN. FRASER: The other stuff was the
20 people that I know that are capable of that. Now, if
21 someone is not capable, we are not changing the mail-out
22 ballot procedures. And that anyone for some reason that
23 could not vote in person would be allowed to vote like
24 they do today.

25 SEN. WEST: Don't you think that a better

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 definition would be 65? Why wouldn't you use 65? And
2 let me give an example.

3 In the Human Resource Code, elderly person
4 means a person 65 years of age or older. Why wouldn't
5 we use that as an age? Our Penal Code uses elderly
6 individual means a person 65 years of age or older. Our
7 Utility Code means an individual who is 60 years or
8 older. Our Human Resource Code means an elderly person,
9 means a person who 60 years or older. And now we're
10 going to have our election code basically saying a
11 person of 70 years or older. Don't you think -- I'm not
12 going to vote for your bill anyway, but just in case.

13 SEN. FRASER: You actually were one of the
14 ones that was asking if I would put it in the bill.

15 SEN. WEST: No, no, no, no, no, no, no,
16 no. Let's get it straight. I didn't ask you that --
17 okay? -- for the record. Okay? I didn't ask you that.

18 SEN. FRASER: Okay.

19 SEN. WEST: But if you're going to put it
20 in there, it seems as though you should have one of a
21 consistent definition with some of the other statutes.
22 You're making an elderly individual for voting purpose
23 more onerous than it is under these other statutes, like
24 in our Penal Code where it says an individual -- elderly
25 person is 65 years old.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000497
JA_000496

TX_00000497

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: I actually believe that the
2 number probably could easily be higher, because --

3 SEN. WEST: So you would make it 80 years
4 old?

5 SEN. FRASER: I'm sorry?

6 SEN. WEST: You would make it 80 years old
7 for election purposes?

8 SEN. FRASER: I'm saying when I'm 80, I
9 still believe I'll be able to get in the car, go down
10 and get my ID and be able to vote.

11 SEN. WEST: But, see, you're assuming that
12 all elderly people have cars.

13 SEN. FRASER: If they don't, they can vote
14 by mail.

15 SEN. WEST: But you're assuming that they
16 all have cars and that they'll be able to do everything
17 that you'll be able to do at the age of 80. And I'm
18 pretty certain you will be able to do it given, you
19 know, the things that you do to keep yourself in shape
20 and everything.

21 But I don't think we should be building
22 that definition based on how you perceive yourself and
23 people in your neighborhood. The fact of the matter is,
24 you're more affluent than most other people in the State
25 of Texas. And if you're going to build a definition, I

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000498
JA_000497

TX_00000498

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 think what you need to look at is what the average
2 elderly person in the State of Texas, you know, is and
3 the means that they have.

4 SEN. FRASER: And, Senator, I think, you
5 know, if you're going to consider that, you've got to
6 think about how things have changed. When my parents
7 were 65, they were old. Things have changed a lot with
8 diet and exercise, and people are changing what they can
9 do.

10 People that are 70 or 75 or 80 are still
11 very, very active today, and I think it's a very fair
12 number. Now, I feel very comfortable that you're
13 probably going to offer an amendment, raising -- or
14 changing that number. And I think probably, if the
15 members of the body, you know, could help us decide
16 that, I think -- myself, I believe that 70 is a very
17 fair number --

18 SEN. WEST: Let me --

19 SEN. FRASER: -- exception.

20 CHAIRMAN DUNCAN: Senator West --

21 SEN. WEST: Yes.

22 CHAIRMAN DUNCAN: -- if I might
23 interrupt -- and I don't want to -- we can continue with
24 your line of questions when we reconvene as a Committee
25 of the Whole. It's 20 till. We've gone 10 minutes over

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000499
JA_000498

TX_00000499

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 what we previously announced. Would you have any
2 objection if we could continue the dialogue after
3 session?

4 SEN. WEST: No objection.

5 CHAIRMAN DUNCAN: Okay. Very good. Why
6 don't we go ahead and do that. Before we do that, let
7 me ask the body if you would, please, if you have
8 amendments that you would wish to -- we're not putting a
9 deadline on amendments, but it will help us if you can
10 deliver your amendments as soon as possible to Jennifer
11 Fagan who is the State Affairs Committee Director, and
12 we will try to collate them and make sure that there are
13 not conflicting amendments. And if you'll do that as
14 soon as possible, that will be helpful.

15 There are a number of people that are on
16 queue to be recognized, and I will recognize them in
17 order that they're on queue. Now we'll record that and
18 then start. Senator Lucio will be first, Senator Van de
19 Putte, Senator Ellis, Senator Seliger, unless you're
20 just -- you're just on for the motion, so we'll take you
21 off center -- Wentworth. He's just for the motion, so
22 we'll take him off. And then, Senator Zaffirini, you
23 would be in queue at that point in time. And then we'll
24 just start the queue. Whenever we come back in, you can
25 go ahead and hit your button and we'll have the queue.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000500
JA_000499

TX_00000500

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Exhibits, too. If you have exhibits that
2 you want to enter into the record so that we can make
3 sure we have an orderly transition of those exhibits,
4 would you go ahead and bring those forward, at least
5 during the interim time, so we can go ahead and number
6 them and have them available. It's not absolutely
7 necessary that we introduce them in their chronological
8 order, but it does help have a cleaner record.

9 Finally, I want to remind you, we did have
10 a little talking over, so we've got to make sure we have
11 a clear record. So please, in the future, remember to
12 speak one at a time.

13 Senator Zaffirini is recognized for an
14 announcement.

15 (Announcement by Senator Zaffirini)

16 CHAIRMAN DUNCAN: Thank you, Senator.

17 The Chair recognizes Senator Seliger for a
18 motion.

19 SEN. SELIGER: Mr. President, I move that
20 the Committee of the Whole Senate rise and report
21 progress.

22 CHAIRMAN DUNCAN: Members, you've heard
23 the motion. Is there objection?

24 Chair hears none. It's so ordered.

25 (Recess: 10:43 a.m. to 12:38 p.m.)

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 AFTERNOON SESSION

2 TUESDAY, JANUARY 25, 2011

3 (12:38 p.m.)

4 CHAIRMAN DUNCAN: The Committee of the
5 Whole Senate will come to order. The Secretary will
6 call the roll.

7 ROLL CALL

8 SECRETARY SPAW: Birdwell?

9 SEN. BIRDWELL: (Indicated presence)

10 SECRETARY SPAW: Carona?

11 SEN. CARONA: (Indicated presence)

12 SECRETARY SPAW: Davis?

13 SEN. DAVIS: (Indicated presence)

14 SECRETARY SPAW: Deuell?

15 SEN. DEUELL: (Indicated presence)

16 SECRETARY SPAW: Duncan?

17 CHAIRMAN DUNCAN: (Indicated presence)

18 SECRETARY SPAW: Ellis?

19 SEN. ELLIS: (Indicated presence)

20 SECRETARY SPAW: Eltife?

21 SEN. ELTIFE: (Indicated presence)

22 SECRETARY SPAW: Estes?

23 SEN. ESTES: (Indicated presence)

24 SECRETARY SPAW: Fraser?

25 SEN. FRASER: (Indicated presence)

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000502
JA_000501

TX_00000502

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SECRETARY SPAW: Gallegos?
2 SEN. GALLEGOS: (Indicated presence)
3 SECRETARY SPAW: Harris?
4 SEN. HARRIS: (Indicated presence)
5 SECRETARY SPAW: Hegar?
6 SEN. HEGAR: (Indicated presence)
7 SECRETARY SPAW: Hinojosa?
8 SEN. HINOJOSA: (Indicated presence)
9 SECRETARY SPAW: Huffman?
10 SEN. HUFFMAN: (Indicated presence)
11 SECRETARY SPAW: Jackson?
12 SEN. JACKSON: (Indicated presence)
13 SECRETARY SPAW: Lucio?
14 SEN. LUCIO: (Indicated presence)
15 SECRETARY SPAW: Nelson?
16 SEN. NELSON: (Indicated presence)
17 SECRETARY SPAW: Nichols?
18 SEN. NICHOLS: (Indicated presence)
19 SECRETARY SPAW: Ogden?
20 SEN. OGDEN: (Indicated presence)
21 SECRETARY SPAW: Patrick?
22 SEN. PATRICK: (Indicated presence)
23 SECRETARY SPAW: Rodriguez?
24 SEN. RODRIGUEZ: (Indicated presence)
25 SECRETARY SPAW: Seliger?

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000503
JA_000502

TX_00000503

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. SELIGER: (Indicated presence)
2 SECRETARY SPAW: Shapiro?
3 SEN. SHAPIRO: (Indicated presence)
4 SECRETARY SPAW: Uresti?
5 SEN. URESTI: (Indicated presence)
6 SECRETARY SPAW: Van de Putte?
7 SEN. VAN de PUTTE: (Indicated presence)
8 SECRETARY SPAW: Watson?
9 SEN. WATSON: (Indicated presence)
10 SECRETARY SPAW: Wentworth?
11 SEN. WENTWORTH: (Indicated presence)
12 SECRETARY SPAW: West?
13 SEN. WEST: (Indicated presence)
14 SECRETARY SPAW: Whitmire?
15 SEN. WHITMIRE: (Indicated presence)
16 SECRETARY SPAW: Williams?
17 SEN. WILLIAMS: (Indicated presence)
18 SECRETARY SPAW: Zaffirini?
19 SEN. ZAFFIRINI: (Indicated presence)
20 SECRETARY SPAW: Lieutenant Governor
21 Dewhurst?
22 PRESIDENT DEWHURST: (Indicated presence)
23 CHAIRMAN DUNCAN: Quorum is present.
24 (Pause)
25

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000504
JA_000503

TX_00000504

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 QUESTIONS FROM THE SENATE FLOOR (CONTINUED)

2 CHAIRMAN DUNCAN: Senator Fraser, are you
3 ready?

4 SEN. FRASER: I am ready.

5 CHAIRMAN DUNCAN: Senator West, you're
6 recognized to continue your questioning with Senator
7 Fraser.

8 SEN. WEST: Yes, sir. Thank you very
9 much.

10 SEN. FRASER: And we're going to try it
11 without earphones. See how that works. I think I'm
12 good with you.

13 CHAIRMAN DUNCAN: And if I could advise
14 both of you, I had some -- we had some concerns about
15 you were both talking at the same time on your last
16 dialogue. So if each of you could remember that, and
17 I'll try to help you --

18 SEN. WEST: Okay.

19 CHAIRMAN DUNCAN: -- if you forget.

20 SEN. WEST: All right. Thank you.

21 Senator Fraser, I think, then, when we
22 were looking -- can I ask that the last question be read
23 back?

24 CHAIRMAN DUNCAN: The -- probably not
25 because we have switched court reporter shifts and so --

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000505
JA_000504

TX_00000505

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WEST: I was just trying not to be
2 redundant on it.

3 And, Senator Fraser, if -- if I am being
4 redundant, we talked about --

5 SEN. FRASER: You are being redundant.

6 SEN. WEST: Okay. I need to ask the
7 Secretary of State about that.

8 (Laughter)

9 SEN. WEST: Wait a minute. Hold on. I'm
10 being redundant?

11 Senator Fraser, I think I was asking you
12 about the \$2 million; and you had indicated that those
13 funds may very well come from the federal funds, but
14 we're not certain at this point. And if they don't come
15 from federal funds, they will have to come from general
16 revenue, and we're at least -- the minimum amount is
17 about \$2 million. And I think that I mentioned to you
18 that the average teacher in the state of Texas makes
19 about \$48,000.

20 If we have to appropriate state funds in
21 order to fund this voter ID bill, it will cost a minimum
22 of \$2 million, and that's the equivalent of about 40,000
23 teachers. You do understand and appreciate that. Is
24 that correct?

25 SEN. FRASER: And I very much appreciate

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000506
JA_000505

TX_00000506

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 how valuable our schoolteachers are to the state of
2 Texas. Without a doubt, I'm very, very aware of that.

3 And, again, the discussion we had prior to
4 us breaking, we believe very, very strongly that there
5 is sufficient funds in the Secretary of State's budget
6 from HAVA funds that would -- that the letter says they
7 have enough funds to cover this. They are going to
8 request of the federal government. It is not
9 unprecedented. They have allowed that to be used
10 before, so we have every reason to believe it will be
11 done. And so the discussion of whether that money would
12 deprive some -- the rest of the budget is speculative us
13 not knowing because we believe very strongly that --
14 that that money is going to be available.

15 SEN. WEST: And this may very well be a
16 technical question for the Secretary of State.

17 If for some reason --

18 SEN. FRASER: I would never refer anything
19 to --

20 SEN. WEST: If for some reason the bill is
21 not precleared by Justice, will those HAVA funds be made
22 available?

23 SEN. FRASER: I'm sorry. That one I, for
24 sure, do not know the answer to that. That would be a
25 great question for the Secretary of State.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000507
JA_000506

TX_00000507

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WEST: For sure?

2 SEN. FRASER: For sure.

3 SEN. WEST: Okay.

4 SEN. FRASER: I do not know the answer to
5 that question.

6 SEN. WEST: Okay. And we need to make
7 certain we do. If -- would you support an amendment,
8 though, that basically says that if general revenue,
9 state revenue, had to be used in order to fund this
10 particular bill, that you would then delay the -- the
11 implementation of it?

12 And the reason I'm asking that is, surely
13 you don't want to take general revenue from our coffers
14 to fund voter ID when we may end up having to lay off
15 thousands of teachers. I would assume that you would
16 want teachers -- us to appropriate money to make certain
17 that we can fund our education system over funding a
18 voter ID system.

19 SEN. FRASER: Senator, could I remind you
20 that there was a motion in writing that was entered by
21 Senator Huffman of the -- the testimony of two years
22 ago. And I think if you'll go back and read that
23 testimony, yourself and several others, one of the big
24 arguments you had was making sure that there was
25 sufficient money that went forward for the education of

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000508
JA_000507

TX_00000508

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 voters, making sure voters understood and that no one
2 would misunderstand this process. So it's difficult for
3 me when you're arguing both sides of the issue.

4 I think the answer to your question is,
5 I'm not going to take a position today about whether we
6 should or should not. We are requesting that the
7 Secretary of State do sufficient education so that no
8 one misunderstands the -- the implementation of this
9 bill.

10 SEN. WEST: Regard --

11 SEN. FRASER: We're going to give -- we're
12 going to give them that power. And that without a
13 doubt, I would hate for us to be using money that could
14 be used for a schoolteacher, and I'm not going to get
15 into that debate because I'm a great supporter of
16 schoolteachers.

17 But I still stand by the letter from the
18 Secretary of State. The Secretary of State believes
19 very clearly that they have sufficient funds, the money
20 is available, and it will be made available.

21 SEN. WEST: So the answer to my question
22 is, is that if there are no federal funds available, you
23 would support an amendment that basically says that we
24 should not use general revenue in order to fund this
25 bill?

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000509
JA_000508

TX_00000509

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: And my position is, is that
2 you've taken both sides of that issue. You argued in
3 favor of funds last time. You're -- now you're asking
4 for amendment saying we're not going to use funds. If
5 we don't use funds to educate voters, obviously that's a
6 problem.

7 And the answer is, no, I believe the
8 instruction to the Secretary of State is that we do need
9 to educate the voters.

10 SEN. WEST: So you'd be -- you'd be in
11 favor of cutting schoolteachers using -- and, I mean,
12 you agree with me that based on the budget that was
13 introduced by the House and the budget that was
14 introduced by the Senate, that school districts will be
15 under pressure to terminate some of the teachers that
16 would otherwise be in the classroom?

17 SEN. FRASER: I -- I don't agree with
18 anything other than the fact --

19 SEN. WEST: Okay. All right.

20 SEN. FRASER: -- that your own finance,
21 you're going to have to make those decisions; and we've
22 got to make sure that we educate voters, making sure
23 that they understand the implementation of this law.

24 SEN. WEST: All right. Let me ask the
25 question this way, then: Would you agree with me that

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 both the House and the Senate have introduced bills that
2 put pressure on school districts to reduce their budgets
3 that would impact the number of teachers that would be
4 in classrooms?

5 SEN. FRASER: You're a member of the
6 Finance Committee that implemented a draft budget. I am
7 not. I have not advised.

8 And the answer is, I'm sorry, I don't --
9 I -- I'm not advised on that issue.

10 SEN. WEST: If you were so advised -- if
11 you were so advised that both the House and the Senate
12 by -- if you were so advised by me, the Chairman of
13 Finance, the Chairman of Appropriation, that both the
14 House and the Senate have introduced bills that would
15 require us cutting our commitment to our public schools
16 and our teachers, if you were so advised that both
17 houses introduced the budget that did that, would your
18 position still be the same as it relates to the question
19 I asked you concerning whether or not we should be using
20 general revenue in order to fund voter ID implementation
21 over funding our public schools?

22 SEN. FRASER: I am so advised that you're
23 a member of finance, a very respected member, and you're
24 very capable of making those hard decisions; and I'm
25 sure you'll move forward and make the right decision for

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 our wonderful schoolteachers across the state.

2 SEN. WEST: What decision would you make?

3 SEN. FRASER: I'm sorry?

4 SEN. WEST: What decision would you make?

5 SEN. FRASER: I made a decision to support
6 you, as a member of finance, to keep you on the
7 committee.

8 SEN. WEST: So if you had -- if you had to
9 make a decision, though, if you were on finance and had
10 to make a decision, what decision would you make?

11 SEN. FRASER: I'm sorry. I'm not sitting
12 on finance. I'm not subject to being able to listen to
13 the debates, so it would be -- wouldn't be right for me
14 to take a position on that.

15 SEN. WEST: But if you had to make -- take
16 a position on funding voter ID over schoolteachers,
17 which one would you fund?

18 SEN. FRASER: I'm -- I think the
19 position -- because this bill is before us, it is
20 extremely important that -- that we deter and detect
21 fraud and restore the public confidence in the election
22 system.

23 SEN. WEST: So that's your answer in terms
24 of -- is that what you're telling the teachers, that
25 you'd rather do that than -- to the extent it's there,

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000512
JA_000511

TX_00000512

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 you'd --

2 (Simultaneous speaking)

3 SEN. FRASER: Well, unfortunately, since
4 I'm not a member of finance, I don't get to make a
5 choice of what I would rather do. I'm laying --
6 bringing forward a bill today that would restore the
7 confidence of the public in the election system and --
8 today, because I'm sponsoring that bill, that I'm going
9 to ask that we -- you know, we restore that confidence.

10 SEN. WEST: So, I'm trying to -- so let me
11 make certain I understand your answer to my question.

12 SEN. FRASER: I know you're trying to --

13 SEN. WEST: Let me -- let me -- hold up.
14 Now, I'm listening, because if you remember, both of us
15 can't talk at the same time because the stenographer's
16 taking it down, and I'm trying to make certain that I am
17 reminded of that fact.

18 So your answer to that question is that
19 you would prefer to fund the voter ID bill, if need be,
20 with state funds than to put extra money -- take that
21 \$2 million, if we need to, and put it back in the budget
22 for our school districts?

23 SEN. FRASER: You know, the -- you know,
24 the important thing -- or the good thing with the
25 Legislature is you don't get to make -- answer questions

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000513
JA_000512

TX_00000513

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 for me, and the -- I did not say that at all.

2 Today I'm laying -- bringing forward a
3 bill that would deter and detect fraud and restore the
4 public confidence in the election system.

5 SEN. WEST: How does your bill detect
6 fraud?

7 SEN. FRASER: Come back? I'm sorry. I
8 didn't hear you. What did you say?

9 SEN. WEST: How does your bill detect
10 fraud?

11 SEN. FRASER: The -- the bill is designed
12 to deter and detect fraud and restore --

13 SEN. WEST: No. I asked you: How does
14 your bill detect fraud?

15 SEN. FRASER: The -- I think the easy
16 answer to that would be, is that when you walk into
17 the -- into your election booth and you show your
18 driver's license, they know for sure that you're Royce
19 West and that if you're on the precinct list,
20 registered, you're entitled to vote.

21 SEN. WEST: And so that's -- that's the
22 fraud detection provision in it? And so you'd rather
23 fund --

24 SEN. FRASER: That's the way the bill
25 works.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000514
JA_000513

TX_00000514

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WEST: Now, let me ask you this: If
2 there's empirical evidence that -- in Texas, at least,
3 because, you know, we are -- we are Texas. We are the
4 Lone Star State. The rest of America can go this way,
5 and we'll go that -- the other way. Right? Right.
6 Okay. You're good with that. Right?

7 SEN. FRASER: I'm sitting here listening.

8 SEN. WEST: You don't agree with that?

9 SEN. FRASER: No, I'm listening to you.
10 You're --

11 SEN. WEST: We are Texans.

12 SEN. FRASER: You're still answering my
13 questions for me.

14 SEN. WEST: We're Texans.

15 SEN. FRASER: Keep going.

16 SEN. WEST: I'm just asking you whether
17 you agree with it. And so the question I'm asking you
18 is: Is there any indication that we have prosecuted any
19 fraud associated with identification in the state of
20 Texas? Is there any empirical evidence whatsoever?

21 SEN. FRASER: The bill that I'm bringing
22 forward today will clearly say that when you walk in the
23 voting booth, you identify yourself as who you say you
24 are, and the bill that we're bringing forward we believe
25 will pass the Supreme Court of the United States and be

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000515
JA_000514

TX_00000515

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 approved by Department of Justice.

2 SEN. WEST: I notice you keep on saying
3 that in terms of you believe that the bill is going to
4 pass muster at the Department of Justice and also the
5 United -- the Supreme Court of the United States. Are
6 you anticipating any -- let me -- let me ask this: If
7 the Department of Justice decides not to preclear this
8 legislation, are you anticipating any type of court
9 challenge by the state of Texas?

10 SEN. FRASER: Senator, I'm starting to
11 have trouble hearing you. Hold on a second. Let me put
12 my earphones on.

13 (Pause)

14 SEN. FRASER: Are you there?

15 SEN. WEST: Yes.

16 SEN. FRASER: Would you say something?

17 SEN. WEST: Testing, testing, testing.

18 SEN. FRASER: Okay. I got you.

19 SEN. WEST: One, two, three.

20 SEN. FRASER: Okay. Will you ask your
21 question again?

22 SEN. WEST: You have consistently
23 indicated that this particular bill will pass the
24 Department of Justice and also the Supreme Court. I'm
25 asking you: Do you anticipate that if the Department of

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000516
JA_000515

TX_00000516

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Justice decides not to preclear this particular
2 legislation, any litigation concerning it?

3 SEN. FRASER: You're -- you're being
4 subjective about me assuming what's going to happen. I
5 believe the bill that we had -- that we're offering will
6 be precleared.

7 SEN. WEST: But I'm asking if it's not
8 precleared. Do you want to see us go into litigation
9 with the federal government concerning your bill if it's
10 not precleared?

11 SEN. FRASER: I don't -- I don't think
12 that's, you know, my choice. I think we -- we will
13 present the bill forward and try to present our best
14 case that it should.

15 SEN. WEST: Okay. So does your bill
16 anticipate any litigation at all?

17 SEN. FRASER: The bill in no way addresses
18 or thinks about any litigation. It is clearly just a
19 bill saying this is -- this is what we're asking you to
20 do, to present a photo ID when you vote, and that's the
21 extent of the bill.

22 SEN. WEST: I know because -- and the
23 reason I ask that question, you continue to make
24 reference to the Department of Justice and the U.S.
25 Supreme Court or --

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000517
JA_000516

TX_00000517

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: Only because the -- the
2 bills that have been brought forward by other states,
3 which Indiana was cleared by the -- you know, made it
4 all the way to the U.S. Supreme Court; and then in
5 Georgia, they were precleared from the Department of
6 Justice because a bill -- you know, since we're a
7 Section 5 state, they were precleared.

8 SEN. WEST: Okay. In Georgia, not
9 Indiana. Indiana's not a Section 5 state?

10 SEN. FRASER: No, they are not.

11 SEN. WEST: Okay. Has the Legislature or
12 have you conducted any research on how burdens of the
13 photo ID requirements may fall disproportionately upon
14 racial minorities?

15 SEN. FRASER: Come back again. I'm sorry.
16 My sound went off.

17 SEN. WEST: Okay. In drafting your -- in
18 drafting your bill, was there any research conducted on
19 how burdens of -- burdens of photo identification
20 requirements may fall disproportionately on racial
21 minorities?

22 SEN. FRASER: Probably the best evidence
23 that I could bring forward, that the latest poll that
24 was conducted of Texans, including the people in your
25 area. Of the -- there were 86 percent of the public

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000518
JA_000517

TX_00000518

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 that in favor of that. Of that, 82 percent were black,
2 83 percent were Hispanic.

3 So I would say the answer to your question
4 is: If you ask someone that is either African American
5 or Hispanic, do they believe that -- "Do you
6 favor/oppose requiring a valid photo ID before a person
7 is allowed to vote?" and you have 82 percent of the
8 public that says that --

9 SEN. WEST: Right.

10 SEN. FRASER: -- pretty -- pretty
11 straightforward.

12 SEN. WEST: You keep referring to that
13 poll. What poll is that, sir, and who was it conducted
14 by?

15 SEN. FRASER: It was conducted -- this is
16 one of many we had. I've got a whole series of polls.
17 This just happened to be the latest one that was
18 conducted January the 10th, 2011. This one was by the
19 Lighthouse Opinion Polling & Research, LLC.

20 SEN. WEST: Lighthouse Opinion.

21 SEN. FRASER: Lighthouse Opinion Polling,
22 LLC.

23 SEN. WEST: Okay. And --

24 SEN. FRASER: One that was --

25 (Simultaneous discussion)

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000519
JA_000518

TX_00000519

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WEST: Were you finished?

2 SEN. FRASER: Yeah.

3 SEN. WEST: Okay. Now, the question,
4 though, that I asked, not -- and I agree with you that
5 most people will say that some form of photo ID is okay.
6 Now --

7 SEN. FRASER: But what --

8 SEN. WEST: Let me -- let me finish. Let
9 me finish, though. Hold on for a second.

10 I would agree with you that, but my
11 question wasn't about their opinion. My question was:
12 Have you conducted any research on how burdens of photo
13 ID requirements may fall disproportionately on racial
14 minorities?

15 SEN. FRASER: And I think the answer to
16 that, if you look at what happened in Indiana and
17 Georgia is a good example because it is a Section 5
18 state. In those states, to our -- to my knowledge,
19 there has not been a single person that has come forward
20 to identify themselves that they were in any way, you
21 know, in -- you know, kept from voting or inconvenienced
22 by voting.

23 So the answer to your question is, that I
24 look at the data that has been collected from the states
25 that have implemented, and they're coming forward. That

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000520
JA_000519

TX_00000520

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 is the case. Plus the fact that if you ask African
2 Americans or Hispanics in Texas, it's a very
3 straightforward question. When you have 82 percent of
4 the public, the people that you represent, saying, you
5 know, "I think that's a good ideal," I'm having a lot of
6 trouble understanding how -- why you don't understand
7 that.

8 SEN. WEST: Okay. So the answer to my
9 question is, is that you did not conduct any type of
10 research on it other than looked at opinion polls and
11 referenced what went on in other states?

12 SEN. FRASER: No, we've done all --
13 there's been a lot of research done.

14 SEN. WEST: And that's what I was asking.
15 What research have you done --

16 SEN. FRASER: I just explained --

17 SEN. WEST: -- to make that determination?

18 SEN. FRASER: -- to you what we did. We
19 have looked at the experience of other states. And
20 you're going to have witnesses come from some of the
21 other affected states, and you're going to be able to
22 ask that question: Who has come forward in your state
23 and said it's a problem?

24 SEN. WEST: Okay. So you're saying, then,
25 that as a result of experiences in other states and an

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000521
JA_000520

TX_00000521

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 opinion poll, that that is the sum total of the research
2 that's been done by you in preparation of this bill?

3 SEN. FRASER: Senator, I think the people
4 in your district understand very clearly. If you ask
5 them a direct question, someone you represent, and said,
6 "Do you favor or oppose requiring a valid photo ID
7 before you're allowed to vote," this is -- that's not
8 rocket science.

9 SEN. WEST: Well, the --

10 SEN. FRASER: "Should you be required to
11 show your picture ID when you go into vote?" That's --
12 that's -- to me, that's -- that's, you know, pretty
13 telling.

14 SEN. WEST: Well, the great thing about it
15 is, we're going to have an opportunity to do just that.
16 Because guess what? I've got a few people from my
17 district down here to testify, so you'll have an
18 opportunity to ask them that. Okay?

19 SEN. FRASER: Good.

20 SEN. WEST: But, again, that's the sum
21 total of your research, though. Right?

22 SEN. FRASER: I didn't say that was the
23 sum total of my research.

24 SEN. WEST: Now, would you agree that
25 Texas has a larger proportion of minorities than

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000522
JA_000521

TX_00000522

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Indiana?

2 SEN. FRASER: Not advised.

3 SEN. WEST: So if -- if the demographic
4 information that we have from the U.S. Department of
5 Census indicated that, you would not disagree with that.
6 Correct?

7 SEN. FRASER: Well, I mean, every state
8 has a different demographic of the makeup of people
9 within the state.

10 SEN. WEST: Sure. I know that, yeah.

11 SEN. FRASER: Georgia is a -- you know,
12 they're -- they're a Section 5 voter rights state, but
13 their makeup is not exactly like Texas.

14 SEN. WEST: That's the point. That's what
15 I'm asking you. You said you weren't advised, so I was
16 just trying to point to you some set of facts that all
17 of us commonly know that we get from the Department of
18 Census, U.S. Department of Census. And if they give
19 different demographic information for the states, then
20 that would probably be controlling, and you would agree
21 that that's the best evidence that we have of what the
22 population is in those various states. That's all I'm
23 asking. Now, let me ask this.

24 SEN. FRASER: But you're trying to answer
25 my question, and I did not say that.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000523
JA_000522

TX_00000523

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WEST: No, I'm not. But are the
2 forms of identification listed in your bill the least
3 restrictive options in order to achieve the goal of
4 avoiding what you call voter identification fraud?

5 SEN. FRASER: Okay. You're going to have
6 to ask that again.

7 SEN. WEST: Are the forms of
8 identification that you've listed in the bill the least
9 restrictive options in order to achieve the goal of
10 avoiding what you have said is voter identification
11 fraud?

12 SEN. FRASER: And I think what you're
13 asking, which is going to be the easiest to use? And
14 the -- the data, if you look back at 2006, the number of
15 people that have registered to vote, about -- I think
16 the number now is 91 percent actually use their driver's
17 license when they registered to vote. So the assumption
18 is at least 91 percent of the people that voted -- or
19 that registered since 2006 had a driver's license. So
20 I'd say that's the -- if it's the -- the easiest thing,
21 I'd say a driver's license.

22 SEN. WEST: So this -- the list of
23 identifications that you use as the -- is the least
24 restrictive options that you could come up with?

25 SEN. FRASER: Well, I don't -- I'm not

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 sure. Your verbiage you're using, I don't know that
2 that's the intent.

3 SEN. WEST: Well --

4 SEN. FRASER: I'm saying that the thing
5 that the -- the type of identification that is most
6 readily available appears to be a driver's license.
7 It -- we think, that is.

8 SEN. WEST: Okay. Now, since there are
9 studies that show that African Americans and Hispanics
10 are more affected by poverty and --

11 SEN. FRASER: Ask him, then.

12 We're trying to figure out if this is a
13 filibuster.

14 SEN. WEST: Is it a what?

15 SEN. FRASER: A filibuster?

16 SEN. WEST: Oh, no, this is serious
17 business. This is serious business.

18 SEN. FRASER: I guess I would remind you
19 that the information that was put into the record this
20 morning by Senator Huffman, the questions you've gone
21 over, I believe we put these --

22 SEN. WEST: Well, at any -- at any point,
23 you can defer to whomever you want to answer the
24 question.

25 SEN. FRASER: No, no, I'm saying --

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000525
JA_000524

TX_00000525

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WEST: You've been referring to the
2 Secretary of State.

3 SEN. FRASER: -- these -- the questions --
4 the questions you're asking, the question and the answer
5 are already in the record from two years ago; that
6 you're asking the exact same question, and I'm answering
7 the exact same answer. It's already in the --

8 SEN. WEST: And it may very well be. I
9 just don't remember. I haven't gone back and read that
10 entire record. It was like 26 hours. So if I'm being a
11 little bit redundant, please give me -- give me a little
12 space on that.

13 Let me go back to the questions I'm
14 asking. Studies have shown that African Americans and
15 Hispanics are more affected by poverty and, therefore,
16 are more likely to participate in government benefit
17 programs. Will the elimination of the government
18 documents as a form of ID disproportionately affect
19 African Americans and Hispanics?

20 SEN. FRASER: I'm not advised.

21 SEN. WEST: Okay. If in fact -- well, let
22 me back up and ask you this question.

23 Do you agree that African Americans and
24 Hispanics are disproportionately affected by poverty in
25 the state of Texas?

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000526
JA_000525

TX_00000526

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: Not advised.

2 SEN. WEST: Okay. Do you --

3 SEN. FRASER: I grew up in a pretty poor
4 family, so --

5 SEN. WEST: Well, that's what I know, and
6 correct me if I'm wrong because we've had our
7 conversations. Your father was a minister, too. Right?

8 SEN. FRASER: Minster and --

9 SEN. WEST: Okay. He went to a lot of
10 African American churches?

11 SEN. FRASER: Yes, he did.

12 SEN. WEST: Did a little singing and stuff
13 like that?

14 SEN. FRASER: Yes.

15 SEN. WEST: Okay. And do you represent a
16 district that has a high poverty level -- or excuse
17 me -- a high ethnic minority population?

18 SEN. FRASER: Interestingly -- well, and
19 what you call high, it is not one of the highest
20 percentage wise of ethnic minority. But the last figure
21 I was shown, my district is the third poorest district
22 in the state, right behind Senator Uresti's. That
23 that -- that number is a couple of year's old, but
24 I'm -- you know, the --

25 SEN. WEST: Okay.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000527
JA_000526

TX_00000527

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: -- people in my district
2 are -- are the working poor.

3 SEN. WEST: Okay. The -- the protected
4 classes, that would be an African American and
5 Hispanics, do you have a high concentration of African
6 Americans and Hispanics in your district?

7 SEN. FRASER: Well, I don't know what
8 you'll call a high percentage. I've got --

9 SEN. WEST: Okay. Comparatively speaking.

10 SEN. FRASER: There -- there are a lot of
11 my voters in my district that, you know, I'm -- I love
12 to say "my constituents" -- that are African American or
13 Hispanic.

14 SEN. WEST: Are they in poverty or what?
15 I mean, you know what poverty is.

16 SEN. FRASER: Well, Senator, if --

17 SEN. WEST: Oh.

18 SEN. FRASER: If I have the third poorest
19 district in the state, that implies that we have some
20 people that are working poor.

21 SEN. WEST: Let me just ask you this
22 question.

23 Do you know whether or not the elimination
24 of the government documents that have hereto before been
25 utilized by voters for identification purposes at the

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000528
JA_000527

TX_00000528

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 polls --

2 SEN. FRASER: Issued before?

3 SEN. WEST: Yeah, I mean, under current
4 law. Let me back up, then.

5 Based on current law and the various
6 government identifications that can be used for purposes
7 of voting, by eliminating those, whether they have an
8 adverse impact on ethnic minorities in the state?

9 SEN. FRASER: Let me -- let me tell you
10 that the people in my district voted -- or they're
11 polling that they -- 92 percent of them say that they're
12 in favor of this -- this requirement.

13 SEN. WEST: Okay. So you don't -- and
14 that's your response to my question?

15 SEN. FRASER: My response is, is that I
16 think the people of the state of Texas, which makes
17 up -- I think it was 83 percent of -- of African
18 Americans and 85 percent of Hispanics, said that they're
19 in favor of it. I'm sorry. It's 82 percent Hispanic --
20 I'm sorry -- Hispanic, 80 -- 83 percent Hispanic, the
21 African American, which is -- it's listed as a black
22 vote, is 82 percent say they are in favor of asking for
23 a photo ID.

24 So it's -- it's -- this is a pretty easy
25 question for them, "Should you have to show your -- your

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000529
JA_000528

TX_00000529

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 photo ID, your driver's license, when you come in to
2 vote?" And they said, "Sure. That's" -- you know,
3 "That's fair."

4 SEN. WEST: And that's your response to my
5 question?

6 SEN. FRASER: Yes.

7 SEN. WEST: Okay. No more questions at
8 this time.

9 SEN. FRASER: Thank you, Senator.

10 CHAIRMAN DUNCAN: Chair recognizes Senator
11 Lucio for questions.

12 SEN. LUCIO: Thank you, Mr. Chairman.

13 Senator Fraser, under this legislation,
14 there are no exceptions at all if you do not have a
15 driver's license -- and correct me if I'm wrong --
16 military ID, citizenship certificates, or passports.
17 Now, not even Senate IDs are appropriate for the
18 purposes of voting. That means the state employee
19 working in the building wishing to cast a ballot during
20 early voting at the Sam Houston Building couldn't use a
21 combination of their voter registration card and their
22 Senate ID. Further, this bill's requirements for
23 identification are stronger than what's used for new
24 employees in obtaining driver's license, the way we
25 understand it.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000530
JA_000529

TX_00000530

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Now, I know many people don't think it's
2 all that difficult to get a driver's license and that
3 everyone has one, but that's just not the case.
4 Eleven percent of Americans surveyed by the Brennan
5 Center for Justice do not have government-issued photo
6 ID. Forty percent of those without voter ID are
7 disproportionately the -- the elderly, the -- the
8 students, women, people with disabilities, low-income
9 people, and people of color.

10 According to disability advocates, nearly
11 10 percent of the 40 million Americans with disabilities
12 do not have any state-issued photo ID. So I do not see
13 how this legislation is going to ensure that they are
14 not kept from exercising their right to vote. Again,
15 it's a right. It's not a privilege. Plus, according to
16 that same survey, one of every five senior women does
17 not have a license.

18 What troubles me even more about the
19 legislation is that it could mean, for so many, under
20 this legislation, election workers will be responsible
21 for determining identity; and that has never been part
22 of their job as election clerks.

23 Now, I got a question.

24 SEN. FRASER: Is there a question coming?
25 I'm looking for the question.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000531
JA_000530

TX_00000531

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. LUCIO: Yeah, it's coming up. I had
2 to --

3 SEN. FRASER: You've got about five or six
4 thoughts. I -- well, I'm going to --

5 (Simultaneous speaking)

6 SEN. FRASER: -- one of them. But you're
7 getting so many thoughts, I'll have trouble responding
8 to them.

9 SEN. LUCIO: What are -- what are they
10 going to do, Senator Fraser, when someone has
11 conflicting last names, conflicting last names on IDs,
12 on their voter rolls, and how many professional ballots
13 will be cast? Are counties ready to resolve all those
14 issues?

15 That might have been asked, I missed it,
16 and I apologize for that because we've been busy, as we
17 always are. But let me -- let me just ask this
18 question, as a follow-up.

19 (Simultaneous speaking)

20 SEN. FRASER: You've asked me 12 --

21 SEN. LUCIO: Go ahead and address --

22 SEN. FRASER: -- so far.

23 SEN. LUCIO: Go ahead and address that
24 one.

25 SEN. FRASER: Huh?

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000532
JA_000531

TX_00000532

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. LUCIO: Okay. Well --

2 CHAIRMAN DUNCAN: Wait, wait, wait, wait,
3 wait. Y'all are really crossing over to where you're
4 not making a good record, so one at a time. I think
5 Senator Fraser was answering a question; and if he could
6 answer it and, Senator Lucio, you could follow with
7 another question.

8 SEN. FRASER: And, Senator, if -- if you
9 really do want an answer to questions, I would love to
10 do one at a time because I actually --

11 SEN. LUCIO: Okay.

12 SEN. FRASER: -- you've asked so many
13 questions, I can't remember --

14 SEN. LUCIO: Okay.

15 SEN. FRASER: -- the first one.

16 CHAIRMAN DUNCAN: All right.

17 SEN. FRASER: But --

18 CHAIRMAN DUNCAN: Wait. You're doing it
19 again, Senator. If we could -- I'm going to stay on
20 this because we do want a good record.

21 SEN. FRASER: If you'll just allow me to
22 just answer a couple of them, and then we'll get them
23 out of the way.

24 SEN. LUCIO: I'll take one at a time.

25 What are you going to do when someone has

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000533
JA_000532

TX_00000533

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 conflicting last names on their ID on the voter rolls?

2 SEN. FRASER: Okay. I'm going to start
3 even further back than that.

4 I -- the -- the first observation you made
5 is that we're making it harder than getting a driver's
6 license. That is totally incorrect. Driver's license
7 is one of the things we're offering, so whatever
8 difficulty it is to get a driver's license, once they
9 get it, that is their identification. So this is not in
10 any way harder than getting a driver's license.

11 No. 2, you made an observation about the
12 elderly. We have two different observations that --
13 that come into play here. First one is that at -- if
14 they're 70 years old on January 1st, 2012, they are not
15 subject to this bill, so they are -- they are operating
16 under current law. And then, also, we are not in any
17 way impacting the mail-in ballot system that is in place
18 today. Any elderly person that wants to vote by mail
19 would -- would have the ability to do it.

20 So, you know, those things, I think,
21 are -- the question you're asking, the third question,
22 about if the name does not match on the -- the ballot,
23 that's the same question that's been asked probably five
24 times already today. My answer continues to be the
25 same, as I've told everyone. We have the Secretary of

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000534
JA_000533

TX_00000534

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 State coming. I don't -- I don't know the -- the exact
2 ruling of what they -- the Secretary of State, slash,
3 the election administrator is how they determine that;
4 and I would like that question to be asked to the
5 Secretary of State, if possible.

6 SEN. LUCIO: Okay. That's fine, Senator.
7 To obtain a driver's license, you could
8 use nonphoto options. Correct?

9 SEN. FRASER: Senator, you can ask that of
10 the DPS.

11 SEN. LUCIO: I'm sorry?

12 SEN. FRASER: If you would -- DPS is going
13 to be here. I would ask you that you could ask the DPS
14 their procedures for -- for getting...

15 SEN. LUCIO: Okay. Well, I have
16 information to that effect, but it's all right. I'll
17 wait for DPS.

18 Let me ask a question on -- on where we
19 have been in this country and this state, and we don't
20 want to go.

21 But do you know what the 24th Amendment
22 did?

23 SEN. FRASER: I'm sorry. I do not.

24 SEN. LUCIO: It ended -- it amended the
25 constitution to allow -- outlaw poll taxes; and it did

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000535
JA_000534

TX_00000535

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 so, and it ended in 1964. I was a freshman in college
2 at the time, and you must have been junior high.

3 SEN. FRASER: I was four or five, then,
4 Eddie, I guess. '64, I was 17 years old.

5 SEN. LUCIO: All right. I did a little
6 research, Senator, on the poll tax in --

7 SEN. FRASER: 15 years old.

8 SEN. LUCIO: -- Texas history. It's
9 something that personally hurts me. After all, my dad
10 had to pay a poll tax which wasn't that long ago. I
11 went to some of those elections with him because he
12 wanted to show me and make sure that I got involved in
13 the political process. I remember those elections, and
14 my -- my mother voted, too. But it was -- it was a
15 sacrifice, quite frankly.

16 Now, Texas adopted a poll tax in 1902. It
17 required that otherwise eligible voters pay between
18 \$1.50 and \$1.75 to register to vote. Now, \$1.75 may not
19 sound like a lot, but for a lot of families living on
20 the breadline, it made voting a privilege instead of a
21 right. Well, 1.75 -- \$1.75 adjusted for inflation today
22 is about 40 to \$45. That means, Senator, that's a mean
23 instrument -- excuse me -- using several ways of
24 calculating, including the consumer price index.

25 Now, 40 bucks is a symbolic figure. A

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000536
JA_000535

TX_00000536

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 driver's license or ID today costs \$25, even for a
2 renewal. And going to the DMV, which is Department of
3 Motor Vehicles, can take time. You're going to get
4 there, wait in line, return home, take off from work,
5 pay for the gas. Now, let's say it takes two hours.
6 Minimum wage in Texas is 7.25 an hour. So if you took
7 off two hours and paid for gas, you're looking at \$40,
8 the same amount of the old poll tax would cost today.
9 Don't -- don't you find that kind of ironic? I do.

10 Under this bill, voters will effectively
11 have to pay the same amount to vote that minorities and
12 the poor had to pay in poll tax in 1902. I'm serious,
13 though. Forty dollars is a lot of money for a lot of
14 people in my district living paycheck to paycheck. You
15 can buy a week's shopping for 40 bucks. You're either
16 going to eat or you're going to -- you're going to vote.
17 That is the choice many will think about making.

18 The poll tax was outlawed in -- in the
19 1960s by the 24th Amendment. It was outlawed because
20 the nation understood that poll tax -- taxes served as
21 one purpose, to --

22 (Simultaneous speaking)

23 SEN. LUCIO: -- disenfranchise minorities
24 and the vulnerable.

25 I'm leading to another question, if I may.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000537
JA_000536

TX_00000537

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Texas has a history, unfortunately, in my
2 opinion of voter suppression. Texas used the poll tax
3 to suppress voters. In fact, Texas only ratified the
4 24th Amendment in 2009, 2009.

5 So what is to stop future legislators
6 making a driver's license or an ID cost more than \$25?
7 We've talked openly over the last few months about
8 raising fees to cover the back -- the budget hole. So,
9 you know, it's -- it's happened with passports.
10 Passports keep going up and up in price. What if in the
11 future, driver's license cost \$125 or \$300? Would it be
12 a poll tax then? And would it be a poll tax then,
13 Senator?

14 SEN. FRASER: Senator, this bill in no way
15 envisions a poll tax. It has nothing to do with the fee
16 that is charged. You're on finance. You're the one
17 that has control over that. The bill we have before us
18 today -- there's nothing you've talked about the last
19 five minutes that has anything to do with this bill --
20 is that this bill is nothing more than showing your
21 driver's license or a ID that we will give them free of
22 charge that they can pick up after work that -- you
23 know, when I was picking cucumbers and -- you know, in
24 the afternoon, when I got off work, I could -- I still
25 had time before seven o'clock to go down and -- to the

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000538
JA_000537

TX_00000538

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 driver's license place to get the driver's license. So
2 this has -- this bill in no way has anything to do with
3 a poll tax.

4 SEN. LUCIO: Well, and I -- I appreciate,
5 you know, what you're saying. However, I just want to
6 make sure that it doesn't get out of hand. And I would
7 ask you, possibly, if you would vote, you would be
8 prepared to work with me and others to -- in order to
9 draft a constitutional amendment that would make any
10 raise in fees associated with driver's license or state
11 ID only possible by a two-thirds vote of each chamber.
12 You think that we could work to that end?

13 SEN. FRASER: Senator, I'm -- I'm not
14 going to commit on anything. You're on finance. Y'all
15 are going to have to work through the issues of
16 balancing the budget.

17 The bill that I'm laying out today, I
18 think, is a very fair way for people to identify
19 themselves, that they can prove they are who they say
20 they are when they go to vote. The -- the thing that I
21 would let you know that, you know, I want to make sure
22 that every -- we've -- we've talked to senator -- you
23 know, the -- Davis has asked about women. I want to
24 make sure that women, men, Hispanics, African Americans,
25 Anglos, everyone in the state has the same opportunity

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000539
JA_000538

TX_00000539

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 to go in and make sure that their vote is counted. And
2 I don't -- the things you're talking about really are
3 not part or subject to this bill.

4 SEN. LUCIO: Well, a driver's license is
5 part of it, I believe, and I'll be --

6 SEN. FRASER: But -- but the cost of a
7 driver's license is determined by the Finance Committee.

8 SEN. LUCIO: When -- when -- when does a
9 driver's license expire? I was going to ask you that
10 question.

11 SEN. FRASER: When does it expire?

12 SEN. LUCIO: Yes, sir.

13 SEN. FRASER: You know, interestingly, I
14 was in -- looking at mine just then, in my office. I
15 got a new one this year, and it's good for six years.
16 So every six years, evidently. I'm -- I'm going to ask
17 DPS that, but my assumption is that a driver's license
18 is renewed to last for six years.

19 SEN. LUCIO: Well, we talked about senior
20 citizens. There are senior citizens, 60, 70 years old,
21 who used an expired driver's license as a form of ID.
22 That's where I'm going with my questions and my remarks.
23 Are they no longer -- they no longer drive, but they
24 still vote.

25 Now, under this bill, they will have to

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000540
JA_000539

TX_00000540

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 renew their license in order to vote. Is that correct?

2 SEN. FRASER: You -- you've given a
3 hypothetical, and I guess it's one of the things --
4 actually, we were in the back discussing a question that
5 was brought up by Senator Davis about an expired
6 driver's license and at what point should it be -- how
7 long should it be used. I think someone used it for an
8 extended period, like the example you're giving, for
9 several years. Unfortunately, that's not a valid --
10 that would be considered a valid license.

11 SEN. LUCIO: I was under that impression
12 or to renew their passport or -- which are seldom used
13 by seniors.

14 SEN. FRASER: I disagree with that. I
15 travel with a lot of seniors. I think there's a lot,
16 you know.

17 SEN. LUCIO: Well, the ID. They use this
18 ID for passports.

19 Well, I obviously have a bunch of other
20 questions, but in the -- in the interest of time, I will
21 address these to you in writing because I'm very, very
22 concerned about, you know, some of the things that are
23 going to be transpiring. I think Senator Davis touched
24 on marriage -- the marriage -- marriage issues.

25 Or I'll give you one scenario, if I may.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000541
JA_000540

TX_00000541

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Two citizens that are getting married. The woman
2 getting married has decided to change her name. They
3 get the marriage certificate. They get married and so
4 on. But when the newlywed wife tries to vote, there is
5 a problem. The name on her voter ID does not match the
6 name on her voter registration. So maybe she did the
7 right thing and changed her name on the voter ID, but
8 before that, when she registered to vote, she had used
9 her maiden name. Maybe she registered to vote with her
10 new married surname but had not had yet changed her
11 voter ID to reflect a change of name. Maybe there is no
12 time to address it because she gets married in October.

13 SEN. FRASER: Senator, these --

14 SEN. LUCIO: Those are just scenarios that
15 are coming up.

16 Others that I'm concerned with are the 18
17 year olds that are turning 18 thirty days inside of --
18 you know, between a primary and a general election.
19 Many of them will not be able to register to vote.

20 There are so many different scenarios,
21 Senator, and I'm very concerned about whether or not
22 they will be disenfranchised. That's all. Thank you
23 very much for your time.

24 CHAIRMAN DUNCAN: Senator Van de Putte?

25 SEN. VAN de PUTTE: Thank you,

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000542
JA_000541

TX_00000542

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Mr. Chairman.

2 Would author of the bill yield for some
3 clarification?

4 SEN. FRASER: I would yield.

5 SEN. VAN de PUTTE: Thank you very much,
6 Senator Fraser. I wanted to have a moment to clarify
7 some of the conversation and the points that we had on
8 our discussion earlier.

9 I thought that I had heard you say that
10 the bill that we had in the 81st Legislature was
11 actually modeled after Georgia. When after comparison,
12 I think that it was actually modeled more closely after
13 the Arizona bill, which is a Section 5 voting rights
14 state as well. And so I wanted to clarify that, but I
15 thought we had talked so much about the Georgia
16 legislation. So the -- the bill, Senate Bill 362, was
17 actually modeled more after Arizona's law.

18 SEN. FRASER: Senator --

19 SEN. VAN de PUTTE: And I --

20 SEN. FRASER: I am -- I don't want to
21 disagree with you, but I don't think Arizona's ever came
22 out of my mouth on this floor of the legislature about
23 last year's bill or this bill.

24 SEN. VAN de PUTTE: No.

25 SEN. FRASER: I'm -- the -- the bill that

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000543
JA_000542

TX_00000543

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 we modeled last year was a Texas model that we were
2 moving forward, and whenever earlier you were addressing
3 the Georgia bill -- you're a past president of NCSL, and
4 I have the NCSL analysis here. And that's the reason I
5 was confused because you were referencing Georgia, and
6 I've got --

7 SEN. VAN de PUTTE: That's correct.

8 SEN. FRASER: The document that came from
9 the organization that you chaired and that was the
10 reason I was confused about what you were representing.

11 SEN. VAN de PUTTE: Well, Senator, you
12 were confused, and I was confused. However, both -- I
13 think we can both agree that your bill, Senate Bill 14,
14 is more restrictive than current Georgia and Arizona
15 law; that this is based after an Indiana model, but it
16 is even more restrictive. I mean, you have a pretty
17 tight vote --

18 SEN. FRASER: I -- I --

19 SEN. VAN de PUTTE: -- of the bill.

20 SEN. FRASER: I disagree with you on that,
21 that there are -- are small things that we're different
22 on, which basically is the number of things that you can
23 use for identification. But there are a list. I think
24 they have six in Indiana. We have four in Texas. We're
25 under discussion about that four, should it be expanded.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000544
JA_000543

TX_00000544

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 So saying that they're very different is
2 not a correct observation. There is very small
3 differences between the -- the Indiana, Georgia, or
4 Texas. They're actually very, very much alike, and that
5 also gives us the reason we believe it will be approved
6 by the Supreme Court and DOJ.

7 SEN. VAN de PUTTE: Well, I wanted the
8 opportunity to correct myself because Georgia only
9 allows for an alternate two forms in a provisional
10 ballot for first-time voters only, and so they do not
11 allow -- and I stand corrected. You are correct that
12 they don't have two forms of alternate that are not a
13 photo ID. The only time in the Georgia law that they
14 make reference to two forms -- and that's what I was
15 looking at and they have other things that they can use,
16 a bank statement, a current utility bill, a paycheck --
17 is when they are casting a ballot for the first time and
18 they have -- they are new registrants and they don't
19 have a photo ID.

20 So I stand corrected. You are correct in
21 that for a provisional ballot, they do not allow two.
22 The only time they do -- and I'm looking at their
23 Senate -- their -- their bill -- is on a -- and I stand
24 corrected. So I wanted to let you know that I misspoke.
25 That is not correct. It's only the two alternate forms

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000545
JA_000544

TX_00000545

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 when they're doing for first-time registrants.

2 SEN. FRASER: Thank you for that
3 correction, and that -- that is -- the documentation I
4 show does show that they require a photo ID.

5 SEN. VAN de PUTTE: And so I just want to
6 thank you for the ability to clarify this and know that
7 this is your -- this is a Texas bill, and it'll probably
8 be known as the Texas bill. And -- and -- and to your
9 credit, for every -- all the work that you've done, I
10 believe it is very stringent in small ways in the
11 wording. But for the groups of people that I think will
12 have a burden, they -- they have no alternate means.

13 So thank you very much for the opportunity
14 to clarify. And, Mr. Chairman, I don't have any other
15 questions of the author.

16 CHAIRMAN DUNCAN: Senator Ellis?

17 SEN. ELLIS: Just a couple questions,
18 Senator. I know you're tired. You've been up a long
19 time.

20 From your opening statement, the primary
21 reason for this bill is because of your concern about
22 voter fraud. Right? Voter fraud, that's the primary
23 reason --

24 SEN. FRASER: The integrity --

25 SEN. ELLIS: -- for the --

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000546
JA_000545

TX_00000546

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: -- of the ballot, making
2 sure that the person that is trying to vote is who they
3 represent to be.

4 SEN. ELLIS: And if that's the case, why
5 wouldn't you apply a voter -- photo voter identification
6 requirement to mail-in ballots? Don't you think there's
7 probably room for more fraud for the mail-in ballots?

8 SEN. FRASER: I will support you a hundred
9 percent. You file that bill, you come forward with it,
10 and we'll talk about it. But this bill does not in any
11 way address mail-in ballots. This is only in-person
12 voter --

13 SEN. ELLIS: But you -- but you will
14 concede that there's probably room, just from a
15 layperson's perspective? Neither you nor I are experts
16 on it, and I'm just asking you to make the point. Will
17 you concede that there's room -- there's potential for
18 more fraud with a mail-in ballot than with somebody
19 showing up?

20 SEN. FRASER: I'm going to concede that
21 the bill that I'm laying out today will help a lot with
22 the in-person, you know, potential of fraud, and it will
23 make sure the person there is -- is who they say they
24 are.

25 SEN. ELLIS: If you just had to guess,

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000547
JA_000546

TX_00000547

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 would you think people who are more apt to do a mail-in
2 ballot would be people in the red jersey or the blue
3 jersey?

4 SEN. FRASER: I wouldn't be apt to guess.

5 SEN. ELLIS: Do you care?

6 SEN. FRASER: Oh, I care a lot, but I'm
7 not going to guess.

8 SEN. ELLIS: Okay. You heard the
9 discussion earlier about the concern -- I think even in
10 your district, some of those DPS offices, I think, on
11 that map may be closing a few days a week. So you --
12 you did say that you have some concern about access for
13 people to go and get --

14 SEN. FRASER: It -- it is a discussion
15 going on, and it's -- you know, there -- I actually was
16 grinning as they were talking about the -- the -- you
17 know, the offices, is that I have the same challenge
18 sometime; and, you know, you've got to work to make sure
19 that they're open.

20 But that's a discussion we're having
21 with -- with Senator Williams. He's having a discussion
22 with DPS, and we're -- we're trying to look at, through
23 his committee, the Finance Committee and communicate with
24 DPS, the -- the easiest way to make sure that everyone
25 can -- can comply.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000548
JA_000547

TX_00000548

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. ELLIS: But you'll agree, it's a
2 problem? There's some concerns about it?

3 SEN. FRASER: I don't know that I'll agree
4 that it's a problem. Problem implies that, you know,
5 there are -- everyone works through it. I've got a
6 driver's license. You've got a driver's license.
7 Probably, I would love for them to come in my office and
8 take my picture, but it doesn't work that way. I have
9 to go and put out the effort to go and get it. And
10 that's the system we have, and we just need to make it
11 as easy as possible.

12 SEN. ELLIS: Well, what prompted you,
13 Senator, to carry this bill? I mean, was it
14 something -- just laying up at night? Did somebody come
15 to you? What -- you're such a handsome fellow, but why
16 you?

17 SEN. FRASER: The -- and actually, I'll go
18 back to -- you asked me the same question two years ago,
19 and it's in the record. We just, you know, entered it.

20 Actually, this is over a number of years,
21 just watching and looking at articles of things that
22 happened. Obviously, there's a lot of press about
23 the -- the Carter-Baker Commission of concern, and I
24 watched the issue. And it was being asked a lot, as I
25 was speaking out in the district, is that when are we

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 going to, you know, address it. And I thought -- I
2 thought the issue had matured, and I decided to file it.
3 If you -- if you remember, this is the third session I
4 filed this bill.

5 SEN. ELLIS: Well, I've always known you
6 to be a member, Senator, who digs into an issue. You --
7 you read a lot.

8 Why would you say a new photo ID? Why
9 wouldn't you just make a -- have a bill that has a
10 requirement that we put a photo on the voter
11 registration card? I mean, wouldn't you agree?
12 Probably more people have a voter registration card in
13 Texas than have a driver's license.

14 SEN. FRASER: That -- well, I don't --

15 SEN. ELLIS: Okay. All right.

16 SEN. FRASER: I don't --

17 SEN. ELLIS: You think more people in
18 Texas --

19 SEN. FRASER: -- think that's true.

20 SEN. ELLIS: -- have a driver's license?

21 SEN. FRASER: I don't -- I'm having the
22 chairman of the committee that is over it --
23 interestingly, I want you to think about what you just
24 suggested, is that driver's license is going to be the
25 easy form of identification. We -- we know that 90-plus

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 percent of the people -- and I think the number is
2 probably higher than that -- have a driver's license in
3 Texas.

4 But if you're going to put a picture on a
5 voter registration, that means that every single person
6 that's registered to vote has to go back in, have a
7 picture made, have the cost of putting it on there. So
8 it's not only the cost --

9 SEN. ELLIS: Let me try it a different
10 way. Do you think that more people who are registered
11 to vote -- you think that more people who are registered
12 to vote would have the voter registration card than a
13 driver's license?

14 SEN. FRASER: Say it again. Do it one
15 more time.

16 SEN. ELLIS: Do you -- would you agree
17 that more people --

18 CHAIRMAN DUNCAN: Senator? Senator Ellis,
19 y'all are talking over each other. If you --

20 SEN. ELLIS: Oh, are we? Should I back
21 up?

22 CHAIRMAN DUNCAN: Yeah -- no. No.
23 Just --

24 SEN. ELLIS: I'll talk slower.

25 CHAIRMAN DUNCAN: -- when he starts to

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000551
JA_000550

TX_00000551

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 answer the question, let him answer it and then ask
2 another question so only one person is speaking at a
3 time.

4 SEN. ELLIS: Okay.

5 CHAIRMAN DUNCAN: Thank you.

6 SEN. ELLIS: Are you through?

7 SEN. FRASER: I'm not even sure what the
8 question was.

9 SEN. ELLIS: The question is, would you
10 agree that more people who vote have a voter
11 registration card than a driver's license? They'd have
12 to because you've got to -- you're supposed to go get a
13 voter registration to be able to vote.

14 SEN. FRASER: Can I answer your question?

15 SEN. ELLIS: Yeah.

16 SEN. FRASER: I'm -- I'm sure everyone at
17 some point were mailed one, but it has been years since
18 I walked in with a voter registration card. I show my
19 driver's license when I vote, and I would say probably
20 that is -- do you show yours, or do you show your
21 driver's license?

22 SEN. ELLIS: I show my driver's license.

23 SEN. FRASER: Well, there's -- but you
24 have -- you probably were mailed a voter registration.

25 SEN. ELLIS: I have both.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000552
JA_000551

TX_00000552

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: Okay.

2 SEN. ELLIS: Let me ask you this: There's
3 an article in today's paper. It says nearly 650,000
4 Texans who refuse to pay surcharge penalties for drunken
5 driving, no insurance, and other violations are being
6 offered a one-time amnesty by the state. Those offered
7 amnesty represent just over half of the estimated
8 1.2 million Texans in default. It talks about what they
9 owe the state. But all of these folks who are in
10 default, because we balanced the budget in '03 with
11 surcharges for people who have a license, all have had
12 their licenses suspended for not paying. So would that
13 concern you any that, at least, according to folks who
14 go get amnesty, that's 1.2 million. That would be more
15 than that. There's 1.2 million owes the state X amount.
16 That's what this article is about.

17 But would you concede it ought to be a
18 problem because we've got a lot of people who had a
19 driver's license, I assume the one's who owe the
20 surcharges are -- you know, maybe a disproportionate
21 number of them are folks who didn't have the money to
22 pay the surcharges. Maybe some of them were just civil
23 libertarians, didn't like the bill and wouldn't pay it
24 period. But a lot of them are probably working-class
25 people who can't pay it. So at least over 1.2 million

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000553
JA_000552

TX_00000553

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Texans since 2003 have gotten their licenses suspended,
2 so they will no longer have a valid driver's license
3 that they could use to go and vote like you and I do.
4 Does that concern you?

5 SEN. FRASER: Well, first of all, if -- if
6 some reason it's a felony, that -- of the crime that
7 they're not paying for, I'm not sure that they -- I
8 guess I'd question whether they're eligible. I don't
9 know the answer. We'd ask the Secretary of State that.

10 SEN. ELLIS: I don't think --

11 SEN. FRASER: But the easy answer to your
12 question is, we're going to give them an ID free. So if
13 they've lost their driver's license, all they got to do
14 is go back down and get a free ID. We'll hand them a
15 new one.

16 SEN. ELLIS: So you think the over
17 1.2 million people who had their licenses suspended
18 because of the surcharges this legislature put on them
19 in 2003 is not -- they haven't been convicted of a -- of
20 a felony. That's not on their record, but their license
21 has been suspended. They're being offered amnesty,
22 according to the article in today's paper. You think
23 that those folks would go and get this new ID? You
24 don't think they'd be worried about showing up and
25 somebody saying, "Hey, by the way, now that I know where

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000554
JA_000553

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 you are, I want my money. I want some of this 1. --
2 \$1.1 billion that you owe to the state"?

3 SEN. FRASER: I'm not advised.

4 SEN. ELLIS: Okay. One distinction,
5 obviously, is these people still have a constitutional
6 right to be able to vote.

7 One last point. On the exemption for the
8 elderly, I don't know if I'm reading this right or not,
9 but in your mind, is that a one-time exemption or would
10 people over -- I think you and Senator West were going
11 through the age deal earlier, and we have to find out
12 from the Secretary of State which one of you hits 70
13 first. But if you have -- the way I read your bill, if
14 you don't hit 70 before that date in January, I believe,
15 of 2012, then it wouldn't apply. So anybody on this
16 floor who will be over 70 at some point or any of your
17 constituents who will hit 70 after that date in January
18 of 2012, would not have that exemption. Is that
19 correct?

20 SEN. FRASER: Yes.

21 SEN. ELLIS: So your intent is that one
22 time.

23 SEN. FRASER: No, it's not a one-time at
24 all.

25 SEN. ELLIS: Continuous for people who are

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000555
JA_000554

TX_00000555

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 already 70 after January of 2012?

2 SEN. FRASER: If you're 70 on January 1,
3 2012, you will be subject to current law the rest of
4 your life.

5 SEN. ELLIS: Okay. I want to make sure
6 that's clear, because some folks have --

7 SEN. FRASER: If you're 70 on that --

8 SEN. ELLIS: -- called my office from
9 AARP --

10 SEN. FRASER: Yes.

11 SEN. ELLIS: Okay.

12 SEN. FRASER: Yes.

13 SEN. ELLIS: So it's not for all people
14 over 70. Just those who will hit 70 by January of 2012.

15 SEN. FRASER: If you're 70 on January 1,
16 2012, you will be subject to the -- the -- not be
17 subject to these provisions. You basically will be
18 operating under current law for the rest of your life.

19 SEN. ELLIS: Are you confident, Senator,
20 that your bill would not have a disparate impact on the
21 elderly, on women, on those that are physically
22 challenged, on racial ethnic minorities?

23 SEN. FRASER: I am --

24 SEN. ELLIS: Are you confident?

25 SEN. FRASER: -- absolutely sure. I would

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000556
JA_000555

TX_00000556

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 not have filed the bill if I had thought it -- I want to
2 make sure that every person in the state has a right to
3 vote. The -- not -- you know, the right that we extend
4 them, they should have that, and I do not believe that
5 in any way we're impacting that and that -- that -- you
6 know, I want to make sure that the groups you're talking
7 about, you know, women, minority, elderly, that they all
8 have the right to vote; and I believe my bill does that.

9 SEN. ELLIS: Okay. And I know that's your
10 intent.

11 SEN. FRASER: Yes.

12 SEN. ELLIS: But you're confident that it
13 will have no impact?

14 SEN. FRASER: I'm very confident.

15 SEN. ELLIS: Okay. To that end, would you
16 have a problem with putting a provision in this bill so
17 that the Secretary of State would do an annual report on
18 whether or not this bill has had a disparate impact?

19 SEN. FRASER: I think we're going to get
20 our report back from the -- assuming it gets to the
21 Supreme Court and Department of Justice, I believe we'll
22 get our report card from that. And then through time,
23 if there are -- and I'm going to go back to the examples
24 of Indiana and Georgia. To my knowledge, there has
25 never been a person that has reported that had a

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000557
JA_000556

TX_00000557

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 problem -- came forward because they had a problem with
2 the laws they've, you know, implemented. We're doing
3 exactly the same thing.

4 So I think you and I, as legislators, if
5 there's a problem, will hear about it. And I would not
6 want to put the burden on an agency. You know, if we
7 hear about it, then we can do that in the future.

8 SEN. ELLIS: Maybe I'm just at a loss. If
9 you -- I know your intent, and you are confident your
10 bill will not have a disproportionate impact on certain
11 groups. I mean, were the concern be the methodology,
12 you could design that. But what would be wrong with the
13 Secretary of State doing an annual report on whether or
14 not this bill has a disproportionate impact on any
15 groups of people so that we know? What -- I mean, you
16 know, we -- oftentimes we pass -- I think we even have
17 a -- I think it might have been Shapleigh who put it in
18 some time ago, when we do a tax bill as a requirement,
19 that we have LBB do a disparate impact statement just so
20 we know because as you know, I mean, we're tinkering
21 with a constitutional right.

22 And, Senator, I might add, we're in a
23 state -- well, you know the history. I mean, initially,
24 you had to be a property owner to vote or you had to be
25 a male to vote, had to be a certain color to vote. Now,

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000558
JA_000557

TX_00000558

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 over time, that has gotten better; but in our southern
2 states, in particular, it has not been an easy journey
3 to get to where we are. So what -- what would be wrong
4 with just simply coming up with some simple methodology
5 and let the Secretary of State do that?

6 SEN. FRASER: We have a simple
7 methodology. It's called going into a session on the
8 second Tuesday of every -- you know, every odd year.
9 And you, as my desk mate, sitting beside me, I feel very
10 comfortable that we'll -- we'll get that -- you know,
11 we'll look at it every couple of years. So I -- I think
12 the fact that we come back in, we're going to be given
13 the opportunity every two years to -- to re-examine.
14 And there will be discussion about this, of whether it's
15 working or not.

16 SEN. ELLIS: To implement your bill,
17 you're going to use federal money to be able to do it.
18 Where would that money be used if it was not going to be
19 used to implement this new system?

20 SEN. FRASER: Well, obviously -- and,
21 again, I don't want to speak for the Secretary of
22 State's office. When they're here, they can give you an
23 ideal. But if there's a pretty good-sized pot of money
24 that's sitting there that we haven't spent yet and
25 we're -- you know, we're pretty good about being

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 creative about, you know, where you spend money. So I'm
2 assuming that money is restrictive about where they can
3 spend it, and I think probably this is a -- an
4 application where it fits.

5 And I guess to answer to your question, I
6 don't know. You can ask them, but I think this is a
7 good place to spend it.

8 SEN. ELLIS: Would a new change go into
9 effect in the next cycle?

10 SEN. FRASER: I'm sorry. Do that again.

11 SEN. ELLIS: With a new election change, a
12 major requirement going into place for the next cycle
13 with new districts, you and I have new districts, do you
14 think it would make sense to give people the ability to
15 register on that day with the photo ID you're requiring?

16 SEN. FRASER: No.

17 SEN. ELLIS: So could you go in and
18 register on that day because some people are just maybe
19 confused about this new requirement we're putting in
20 place?

21 SEN. FRASER: We're going to spend a lot
22 of time and hopefully dollars educating both the public
23 and the -- the workers, and I think the system will work
24 very well like it is.

25 SEN. ELLIS: Your bill looks -- I mean,

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000560
JA_000559

TX_00000560

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 it's obviously a bit more stringent, bit more onerous
2 than the bill you had last session. And based on the
3 questions with you and, I think, Senator Van de Putte
4 earlier, it looks like this bill is also more stringent
5 than the Indiana bill that you modeled it after.

6 SEN. FRASER: That -- you missed the
7 conversation we just had with -- with Senator Van de
8 Putte. That is not the case. It actually is -- is a
9 very, very small change between --

10 SEN. ELLIS: They take student --

11 SEN. FRASER: Huh?

12 SEN. ELLIS: They take student IDs --

13 SEN. FRASER: Well, I --

14 SEN. ELLIS: -- in Indiana?

15 SEN. FRASER: We -- we have four forms of
16 IDs in this bill that we're accepting, but we're also
17 listening to the debate. Indiana has six forms.
18 Georgia I think expands it to about eight. So it's the
19 number -- the type of, but they're all photo --
20 government-issued photo IDs.

21 SEN. ELLIS: Okay. So I guess when I say
22 it's more onerous, there are more people in Texas who
23 would have a student ID than a passport.

24 SEN. FRASER: Not advised.

25 SEN. ELLIS: Okay. Do you know how many

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000561
JA_000560

TX_00000561

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Americans have a passport?

2 SEN. FRASER: Not advised.

3 SEN. ELLIS: Well, I know from the press
4 counts, you and I have one. But -- but I'll just tell
5 you --

6 SEN. FRASER: We don't -- we don't talk
7 about that.

8 (Laughter)

9 SEN. ELLIS: We've gone to a few places
10 together.

11 Six percent of the people, I think, in
12 America have passports. I think about the lowest
13 percentage for most nations in the top 20, 6 percent of
14 the people in America have passports. So I guess I'm
15 saying, why would you choose that as one of your forms
16 of ID as opposed to a student ID when you know we have
17 problems getting young people sometimes to focus for
18 more than a week? But folks who have a passport, you've
19 got to be fairly worldly, shall we say, to go get a
20 passport. And if the number is 6 percent in America,
21 I'm just guessing less than 6 percent of the people in
22 Texas have a passport.

23 SEN. FRASER: We know the people that are
24 issuing the passports. We don't know where all the
25 student IDs are coming from because not all student IDs

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000562
JA_000561

TX_00000562

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 are issued with, you know, our -- our input. So the
2 easy answer to that is that we want to make sure that we
3 have something that is easily recognizable to the poll
4 worker, and we can verify that it is -- it is valid.

5 SEN. ELLIS: What if we tried to put in a
6 student ID from a state institution so at least we did
7 that.

8 SEN. FRASER: Senator, if you want to
9 offer amendments, as I told Senator Gallegos, I draw
10 them up, get it to you where I can look at it and get
11 plenty of time to look at it. There's -- you know,
12 we're going to look at every amendment. If you -- you
13 know, you can throw anything out. We'll discuss it.

14 But, I mean, the thing we're trying to do
15 is we're trying to make it easy as possible on the
16 Secretary of State and the poll worker as we implement,
17 making sure that it's easily identifiable but also, you
18 know, is good public policy.

19 SEN. ELLIS: Well, I'm just asking -- now,
20 I hate to take your time, but, I mean, you -- you put it
21 on the fast track. I mean, I -- I'd like to be working
22 on the budget or something else, but --

23 SEN. FRASER: I didn't put it --

24 SEN. ELLIS: -- since you put it on the
25 fast track.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000563
JA_000562

TX_00000563

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: I didn't put it on the fast
2 track. I'm -- you know, I did not put it on the fast
3 track. I think the -- the person in the center office
4 put it on a -- as an emergency bill and --

5 SEN. ELLIS: So you really don't want to
6 do this, do you?

7 SEN. FRASER: I am standing here
8 explaining it to you because I think it's good public
9 policy.

10 SEN. ELLIS: I'll leave you alone after
11 this one.

12 But based on the election results of the
13 last cycle, what fraud will your side of the aisle be
14 worried about? Senator Whitmire raised that with me the
15 other day. I'm saying this: As well as your side did,
16 seems like my side ought to be a little bit more worried
17 about if there was some fraud.

18 SEN. FRASER: I think if you look at the
19 polling in your district, your district is worried
20 because they're telling you you need to vote for it; and
21 I'm telling you, you're on the wrong side of this issue.

22 SEN. ELLIS: I respectfully would say you
23 ought to be a little careful with that notion of what
24 polling data says. I'm willing to bet you, Troy, when
25 our predecessors stood on this floor and sat in these

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000564
JA_000563

TX_00000564

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 seats and passed most of the restrictions, that at some
2 point were in state law, the polling data indicated they
3 were on the right side of history; but you and I know
4 they were on the wrong side of it.

5 SEN. FRASER: All I can tell you is the
6 question's pretty straightforward. It said -- they
7 asked the people in your area, "Should you have to show
8 a photo ID when you vote?" And the number across,
9 Republican, Democrat, Hispanic, African American,
10 others, were overwhelming.

11 SEN. ELLIS: Well, let me ask you this:
12 If I come up with some polling data that says they would
13 support same-day registration, recognizing student ID,
14 exempting people over 70 forever, not just for those who
15 hit 70 before the next election cycle, to what extent
16 would you be voting based on what the polling says?

17 SEN. FRASER: Well, come -- come forward
18 with your data. But I can tell you the things you've
19 mentioned, the only one that is applicable to this bill
20 is the -- the elderly because the same-day voting, those
21 other things, that's another issue for another day.
22 Doesn't fit on this bill.

23 SEN. ELLIS: Thank you.

24 CHAIRMAN DUNCAN: Chair recognizes Senator
25 Zaffirini.

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. ZAFFIRINI: Thank you,
2 Mr. President -- or Mr. Chairman.

3 Senator Fraser, my first questions will
4 focus on the criminal justice impact, if you have a copy
5 of that.

6 SEN. FRASER: Well, excuse me, before
7 you -- what your first question should be, do I still
8 have my thick book that you were impressed with last
9 time. My --

10 SEN. ZAFFIRINI: Yes. I was --

11 SEN. FRASER: I reread the data last night
12 that you were going to instruct your staff asking them
13 why you didn't have one.

14 SEN. ZAFFIRINI: Well, good. I wish you
15 had it again.

16 SEN. FRASER: I do have it.

17 SEN. ZAFFIRINI: Good.

18 SEN. FRASER: Right here.

19 SEN. ZAFFIRINI: Good.

20 SEN. FRASER: I was -- oh, go ahead,
21 please.

22 SEN. ZAFFIRINI: But do you have a copy of
23 your criminal justice impact statement?

24 SEN. FRASER: I do now.

25 SEN. ZAFFIRINI: My first questions will

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000566
JA_000565

TX_00000566

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 focus on that.

2 In the first paragraph, you'll see that it
3 states very clearly that the punishment for attempting
4 to vote illegally would be enhanced from a Class A
5 misdemeanor to a state jail felony, and the punishment
6 for illegal voting would be enhanced from a third degree
7 felony to a second degree felony. What would be the
8 impact on our state budget of increasing those
9 penalties?

10 SEN. FRASER: I'm sorry. I'm not advised
11 as the impact on the budget, as you know. You're on
12 finance, I'm not. You would know that.

13 The second question I'm assuming you're
14 asking is, why we would consider doing this? Actually,
15 these suggestions were brought forward by Democratic
16 members of your delegation that said, "Why don't we go
17 ahead and increase it?" So we increased the penalties
18 for fraud. So the recommendations on doing this, it
19 actually was across the board. We had people on both
20 sides, but there was recommendations that we increase
21 these penalties.

22 The impact of the cost to the budget, I'm
23 sorry, I'm not advised. My job is to make sure the
24 public is well served, and if someone commits fraud
25 by -- by voter impersonation, that the penalties are

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 strict.

2 SEN. ZAFFIRINI: But I am concerned about
3 this, Senator, and I don't know what Democrat or what
4 Republican asked you to make those changes. I was not
5 privy to that conversation.

6 But if you look at the last paragraph, it
7 says: Increasing the penalty for any criminal offense
8 is expected to result in increased demands upon the
9 correctional resources of counties or of the state due
10 to longer terms of probation, of longer terms of
11 confinement and county jails or prison. And then it
12 also states: When an offense is changed from a
13 misdemeanor to a felony, there is a transfer of the
14 burden of confinement of convicted offenders from the
15 counties to the state.

16 So earlier there was senators who talked
17 about unfunded mandates for the counties, but in this
18 case, we are -- we seem to be relieving the county of
19 some of its burden but then increasing the burden to the
20 state. And my question remains: At what cost?

21 Now, this bill, were it before the Finance
22 Committee, we would have a fiscal note; but because it's
23 not, it's because it's before the Committee of the
24 Whole. We are restricted to the fiscal note that we
25 have here, and it's strange that we don't have a

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000568
JA_000567

TX_00000568

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 connection between the cost of the criminal justice
2 impact and the fiscal note. It seems that there's two
3 independent documents, as they should be, but it seems
4 to me, that the fiscal note should reflect the cost that
5 is defined or, at least, specified in the criminal
6 justice impact statement.

7 SEN. FRASER: Well, and I think the easy
8 answer to that -- I'll -- if someone else, if -- we may
9 defer to Senator Williams, if he wanted to comment, or
10 another member.

11 But I think the easy answer to this is
12 that if we implement the photo ID, it's pretty
13 straightforward, that someone -- if they're going in, if
14 they have a driver's license and they're -- you're
15 attempting to vote, that there's a good assumption that
16 the driver's license is valid, that they are who they
17 say they are. So I'm -- we're hoping that the deterrent
18 will be that people will not try to vote fraudulently,
19 that the ones that are voting will be valid voters, and
20 we don't have a lot of people going to prison because
21 hopefully, they won't try to vote illegally. I --
22 that's the hope.

23 SEN. ZAFFIRINI: Well, actually, Senator,
24 that is why some of us are opposed to this bill because
25 we don't understand the problem that has been defined.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000569
JA_000568

TX_00000569

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 For example, in that same paragraph, it says: In fiscal
2 year 2010, less than five people were under parole or
3 supervision for illegal voting. In fiscal year 2010,
4 five offenders were placed on community supervision, and
5 less than five offenders were released from community
6 supervision for illegal voting or attempting to vote
7 illegally; and then more important, in fiscal year 2010,
8 less than five people were arrested for illegal voting
9 or attempting to vote illegally.

10 So it seems to me that this criminal
11 justice impact statement makes the point that there
12 isn't a problem, especially if you look at the last
13 sentence: It is assumed the number of offenders
14 convicted under this statute would not result in a
15 significant impact on the programs and workload of state
16 corrections agencies or on the demand for resources and
17 services of those agencies. So if they don't see an
18 increased demand in this area because they don't see
19 people being arrested, then where's the problem?

20 SEN. FRASER: Well, and I guess I just
21 disagree with your analysis of this, is that voter
22 fraud, under current law, that our laws are so weak,
23 it's virtually impossible to -- to catch one and
24 convict; and that's the problem we're trying to address.

25 SEN. ZAFFIRINI: Well, okay, Senator.

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Thank you.

2 My next questions will focus on the fiscal
3 note. Do you have a copy of the fiscal note?

4 SEN. FRASER: I do. Somewhere.

5 SEN. ZAFFIRINI: I'll wait till you get
6 it.

7 SEN. FRASER: Yes.

8 SEN. ZAFFIRINI: You have it?

9 SEN. FRASER: I have.

10 SEN. ZAFFIRINI: So the fiscal note shows
11 \$2 million but all in fiscal year 2012. Why aren't
12 there recurring costs? Is that because the photo ID
13 card is issued in perpetuity, or it doesn't have to be
14 renewed?

15 SEN. FRASER: Senator, again, you're --
16 you're a member of finance who would know. You know,
17 this comes from LBB which did consultation with the
18 affected parties, which are Secretary of State, DPS.
19 We're going to have expert witnesses who will come up in
20 a minute --

21 SEN. ZAFFIRINI: Okay.

22 SEN. FRASER: -- and they will explain how
23 they delivered that data. I think probably what you're
24 going to hear from them is that a lot of the initial
25 cost would be in the education of the -- the -- the

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000571
JA_000570

TX_00000571

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Secretary of State educating both voters and poll
2 workers and any initial -- the free cards that we're
3 giving out, there will be more, probably, the first year
4 than other years. I'm -- I'm assuming that's it, but I
5 think I'd ask that question of the Secretary of State
6 and DPS.

7 SEN. ZAFFIRINI: Well, but, again, the
8 fiscal note is submitted to the chair of the committee
9 that hears the bill. You'll notice at the top of
10 Page 1, it is directed to Robert Duncan, chair of the
11 Senate Committee of the Whole, not to Senator Ogden,
12 chair of Finance. And so it is not for the Finance
13 Committee to consider the costs and the implications of
14 these policy changes, but it's up to the Committee of
15 the Whole; and we are the ones who have this fiscal
16 note.

17 And I challenged the fiscal note last
18 time. Remember it was zero, and I couldn't believe it?
19 And I asked you questions about that, and I just
20 couldn't believe it. And so now, all of a sudden, it's
21 a fairly similar bill. Many would say more restrictive,
22 but now it has a fiscal note of \$2 million.

23 And did you say earlier, Senator, that
24 this cost would be covered by HAVA funds?

25 SEN. FRASER: And -- and the difference

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 between this year and two years ago, I think the
2 assumption last year -- two years ago is that they would
3 just be able to use the HAVA funds. And, again, I think
4 you probably should ask the Secretary of State.

5 I believe since then, they have made a
6 request of HAVA requesting that, and HAVA's response, I
7 believe, is that they will wait until the bill is
8 passed. And when the bill is passed, then they will
9 make a determination on whether you could use the -- the
10 money. But we're also looking at history of other
11 states. They have been allowed to use HAVA money.

12 But, again, I think I'd ask the Secretary
13 of State that question.

14 SEN. ZAFFIRINI: Well, as the author of
15 this bill, would you prefer that the state pay this
16 \$2 million in costs, or would you prefer that we use
17 federal funds?

18 SEN. FRASER: I would prefer the money
19 that's sitting over here in a pot at the Secretary of
20 State -- that has not been spent; obviously, I'd much
21 rather use that.

22 SEN. ZAFFIRINI: Do you know, Senator,
23 what the HAVA funds are used for?

24 SEN. FRASER: For educating -- it's the --
25 help America vote. It's to encourage voting.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000573
JA_000572

TX_00000573

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. ZAFFIRINI: So basically, if we use
2 the HAVA funds for this purpose, we are repurposing the
3 HAVA funds that are already there and intended for
4 things like new equipment and ongoing training programs?

5 SEN. FRASER: Senator, I don't think -- I
6 think the decision will be made by the federal agency
7 that sent us the money, the HAVA people; and if they've
8 already authorized other states to use this for voter --
9 it's for voter education, and this would fall in the
10 area of voter education, I would assume.

11 SEN. ZAFFIRINI: Well, it's my
12 understanding, Senator, that it is for the state to
13 submit a plan. The federal government doesn't tell us
14 what to do in that area, not that it doesn't tell us in
15 other areas.

16 SEN. FRASER: And, Senator, I hate -- it's
17 the same answer I've given multiple people before, is
18 that the Secretary of State will be coming up. I think
19 that's the person to address this.

20 SEN. ZAFFIRINI: Do you have any
21 suggestions regarding the training that is referred to
22 on Page 2 of the fiscal note, local government impact?

23 SEN. FRASER: I do not. That, again,
24 will -- it is the job of the Secretary of State to
25 administer that, recommend the training, and I believe

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 they have the authority under current law.

2 SEN. ZAFFIRINI: And you have no
3 information, then, about any recurring costs that we
4 should worry about?

5 SEN. FRASER: I have none.

6 SEN. ZAFFIRINI: And to whom would you
7 refer us on that issue?

8 SEN. FRASER: On recurring costs?

9 SEN. ZAFFIRINI: Uh-huh.

10 SEN. FRASER: Could you give me an
11 example? I don't -- I don't think I --

12 SEN. ZAFFIRINI: Well, the fiscal note
13 shows all the expense in fiscal year 2012, and then it
14 doesn't show any other expenses --

15 SEN. FRASER: I --

16 SEN. ZAFFIRINI: -- beyond that.

17 SEN. FRASER: I would ask the Secretary of
18 State or DPS.

19 SEN. ZAFFIRINI: It just seems to me,
20 Senator, that there will be recurring costs because one
21 example would be the State's responsibility to provide
22 free photo ID cards on a recurring basis to the
23 significant portion of our population that moves
24 regularly. They move from one part of the state to
25 another, and they might need a different card in that

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000575
JA_000574

TX_00000575

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 area. And that would be a recurring cost, would it not?

2 SEN. FRASER: Senator, since 2006, there
3 have only been 37,000 people that registered to vote
4 that did not have a current driver's license. That --
5 that's in the last five years. So the assumption is,
6 the number that is coming into the system that would not
7 have a card, the number is very low. The cost of that
8 card is not a huge number. So actually, the amount that
9 it would cost to take care of them is a -- not a large
10 number.

11 SEN. ZAFFIRINI: What I'm worried about,
12 Senator, as a member of the Finance Committee, is
13 unintended consequences and unexpected costs. Not
14 unexpected because we don't foresee them and can't
15 identify them, but because of the criminal justice
16 impact statement and because of the fiscal note that we
17 have that simply don't address these issues.

18 For example, Line 12, Page 12 of the bill,
19 you refer to the cost of the get-out-the-vote efforts;
20 and basically, the fiscal note states: The analysis is
21 incomplete because, quote, it is not known how many
22 voter registration drives or other activities designed
23 to expand voter registration would occur. So we don't
24 even have an estimated cost of one voter registration
25 drive. And if it is our intent to ensure that we have

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000576
JA_000575

TX_00000576

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 more, we're not considering the cost, it seems to me
2 that we are being irresponsible in terms of identifying
3 the exact cost or the best estimated cost of this bill.

4 SEN. FRASER: And we are -- have the
5 benefit of not being the first one to implement this.
6 We don't have to reinvent the wheel. We can look at the
7 history of states that have implemented, like Indiana,
8 Georgia, and others, look at common things that have
9 happened there. We're going to have a person from
10 Indiana here. I think it -- that would probably be a
11 question you might ask, is the reoccurring cost, because
12 they've had this in effect. I believe they passed it in
13 2006.

14 SEN. ZAFFIRINI: But, of course, when we
15 talk about other states, including Indiana, we -- Texas
16 is much bigger and much more diverse; and so our
17 problems will be very different, our challenges will be
18 very different, and I believe our costs will be
19 significantly higher. But, again, I'm concerned as a
20 member of the Finance Committee.

21 But speaking of costs related to other
22 states, are you aware, Senator, that in many, if not
23 all, of the states that have implemented photo ID bills,
24 including those with less restrictive laws than the one
25 that you propose, they have been challenged in court.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000577
JA_000576

TX_00000577

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 What costs are we anticipating regarding being
2 challenged in court because of this bill?

3 SEN. FRASER: I'm -- I'm not advised, that
4 you're making an assumption we'll be challenged, and
5 I'm -- I do not -- I'm not advised.

6 SEN. ZAFFIRINI: I think it's a pretty
7 safe assumption. Indiana was challenged, and as I said,
8 many, if not all, of the states that have implemented
9 these bills have been challenged.

10 So I think, again, as members of the
11 Finance Committee, as members of the Senate, even those
12 who are not members of the Finance Committee, should
13 look at that as a possibility and certainly should
14 consider the costs. Is this where we want to spend our
15 money? Even the \$2 million. What if HAVA funds are not
16 used for this purpose? Is this where we want to spend
17 the \$2 million and significantly more in defending the
18 bill instead of addressing the other issues that we are
19 facing right now because of economic crisis in Texas?

20 SEN. FRASER: Was that a question?

21 SEN. ZAFFIRINI: Yes. Is it?

22 SEN. FRASER: Is what? Should --

23 SEN. ZAFFIRINI: Is this where we want to
24 spend our money?

25 SEN. FRASER: It's -- the decision on

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000578
JA_000577

TX_00000578

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 that, you know, I'm not on Finance, you are. You're --
2 you're -- you're asked to make those hard decisions. So
3 that, I would -- you know, that'll go back to the
4 Finance Committee.

5 SEN. ZAFFIRINI: Okay.

6 SEN. FRASER: But you're also making an
7 assumption that there's going to be an expense, which I
8 don't think there will be one because I think we'll be
9 able to spend the HAVA funds.

10 SEN. ZAFFIRINI: All right. Well, we
11 disagree on those. I think those assumptions are fairly
12 safe.

13 Senator Fraser, Senator Van de Putte
14 distributed this map earlier. Have you seen this map?

15 SEN. FRASER: I have not.

16 SEN. ZAFFIRINI: Basically, it shows
17 her -- if my -- Mr. Chairman?

18 CHAIRMAN DUNCAN: Senator Zaffirini?

19 SEN. ZAFFIRINI: If I may direct a
20 question to Senator Van de Putte?

21 CHAIRMAN DUNCAN: Pardon?

22 SEN. ZAFFIRINI: If I may direct a
23 question to Senator Van de Putte?

24 CHAIRMAN DUNCAN: Senator Van de Putte
25 doesn't have the floor.

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. ZAFFIRINI: That's why I'm asking.

2 SEN. FRASER: And -- and I won't yield.

3 SEN. ZAFFIRINI: You won't yield?

4 SEN. FRASER: No, I will not yield.

5 SEN. ZAFFIRINI: All right.

6 SEN. FRASER: You -- I'll be glad to
7 answer the question.

8 SEN. ZAFFIRINI: All right. I simply
9 wanted to ask if she planned to distribute this, and if
10 so, I wasn't going to address it.

11 CHAIRMAN DUNCAN: If you want to introduce
12 the exhibit, you're welcome to do so. We've marked it,
13 I think.

14 SEN. ZAFFIRINI: All right. Then I would
15 like --

16 SEN. FRASER: Senator, I'm sorry. I have
17 a map in front of me. I had not seen it, so --

18 SEN. ZAFFIRINI: All right. Well, Senator
19 Van de Putte has indicated that I can request permission
20 to introduce this as an exhibit.

21 CHAIRMAN DUNCAN: Okay. I think it's been
22 marked, and would you -- would you bring it down,
23 please?

24 SEN. ZAFFIRINI: I believe Senator Van de
25 Putte has a clean copy. And this is a map that Senator

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000580
JA_000579

TX_00000580

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Van de Putte had developed, and it's titled, "Counties
2 With Department of Public Safety Driver's License Office
3 Closures."

4 My question, Senator Fraser, would focus
5 on my district. For example, in my district, which
6 comprises 16 counties and part of Bexar, Northeast
7 Bexar, there is one county that has wheelchair
8 accessibility barriers; there are two counties that have
9 absolutely no driver's license offices; there are four
10 that have offices that are temporarily closed; and there
11 is one that has an office that is open three days or
12 fewer each week. And so you can see the accessibility
13 issues that we're dealing with, and you can -- when you
14 get the map -- oh, you do have a copy of the map. You
15 can see the difference throughout the state. There are
16 some states that you can see have a lot of pink, a lot
17 of blue, a lot of green, and then -- counties, rather --
18 and there are others that are just white, that have
19 absolutely no barriers.

20 So, Senator Fraser, looking at this map,
21 are you concerned that this bill would impact certain
22 counties that have a problem related to the
23 accessibility to driver's license offices?

24 CHAIRMAN DUNCAN: Senator Zaffirini, if I
25 could -- before you get an answer to that question,

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000581
JA_000580

TX_00000581

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 let's get it in the record so everybody knows what we're
2 talking about.

3 SEN. ZAFFIRINI: All right.

4 CHAIRMAN DUNCAN: It's Exhibit --

5 SEN. ZAFFIRINI: Mr. Chairman?

6 CHAIRMAN DUNCAN: It's Exhibit 6, I
7 believe. Is that correct? It's not the two that you've
8 previously submitted.

9 SEN. ZAFFIRINI: No.

10 CHAIRMAN DUNCAN: Is that correct?

11 SEN. ZAFFIRINI: It's Exhibit 6, then,
12 according to --

13 CHAIRMAN DUNCAN: Okay.

14 SEN. NELSON: Mr. Chairman?

15 CHAIRMAN DUNCAN: And for what purpose?

16 SEN. NELSON: It's me, and to ask Senator
17 Zaffirini a question or to point out that some of us do
18 not have a copy of this map.

19 CHAIRMAN DUNCAN: Okay. Well, that would
20 be a parliamentary inquiry and --

21 SEN. NELSON: Then I would like to make
22 that.

23 CHAIRMAN DUNCAN: That's what I'm trying
24 to clear up, is I'm trying to get the exhibit in so that
25 we can distribute it so that everyone can understand

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000582
JA_000581

TX_00000582

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 what the questions are.

2 Would you identify it, please? What's the
3 title of it?

4 SEN. ZAFFIRINI: Yes. It is titled,
5 "Counties with Department of Public Safety Driver's
6 License Office Closures." It is a map of Texas showing
7 this -- these issues, and it was developed by Senator
8 Van de Putte. I had assumed that she had introduced it
9 into the record or had planned to, but I'm happy to do
10 it.

11 CHAIRMAN DUNCAN: Okay. Do we have
12 copies?

13 SEN. NELSON: We don't. Only the
14 Democrats do.

15 CHAIRMAN DUNCAN: Okay. Well, here's what
16 I would suggest so that other members have an
17 opportunity to follow your questions and the answers,
18 that we at least get copies of that exhibit and
19 distribute it, if we could do that. And then, so if we
20 could defer on that until we get that done, Senator --

21 SEN. ZAFFIRINI: Certainly.

22 CHAIRMAN DUNCAN: -- that would be
23 helpful.

24 SEN. ZAFFIRINI: Absolutely. No problem,
25 Mr. Chairman.

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Moving right along. I do have exhibit --
2 I guess it's 4 --

3 CHAIRMAN DUNCAN: We do have --

4 SEN. ZAFFIRINI: -- and Exhibit No. 5 that
5 I'd like to enter into the record --

6 CHAIRMAN DUNCAN: Okay.

7 SEN. ZAFFIRINI: -- at this time. And
8 I'll wait until they're distributed, if you -- if I may
9 be permitted.

10 CHAIRMAN DUNCAN: Would you identify
11 Exhibit 4, please?

12 SEN. ZAFFIRINI: Certainly. Exhibit 4 is
13 a copy of a driver's license with personal information
14 obliterated.

15 CHAIRMAN DUNCAN: Thank you. And
16 Exhibit 5?

17 SEN. ZAFFIRINI: Exhibit 5 is a letter
18 directed to me, which I received today, from Spencer
19 Overton, professor of law at the George Washington
20 University Law School and a member of the Carter-Baker
21 Commission on federal election reform.

22 CHAIRMAN DUNCAN: All right. Those
23 exhibits will be received in the record and distributed
24 to the members.

25 (Exhibit Nos. 4 and 5 marked and admitted)

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000584
JA_000583

TX_00000584

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 CHAIRMAN DUNCAN: Senator, you're -- you
2 can --

3 SEN. ZAFFIRINI: Thank you.

4 CHAIRMAN DUNCAN: -- continue on those
5 exhibits.

6 SEN. ZAFFIRINI: Senator Fraser, thank you
7 for your courtesy and for your patience and your
8 stamina. I'm impressed, as always.

9 On Page 4 of your bill, Senator Fraser,
10 Line 8, it states that "and the voter's identity can be
11 verified from the documentation presented under
12 Subsection (b), the voter shall be accepted for voting."
13 Can you describe what training the poll workers would
14 receive to ensure that they are trained in
15 identification verification?

16 SEN. FRASER: Senator, you're moving
17 faster than I can. I'm on Page 4. Where are you
18 referring?

19 SEN. ZAFFIRINI: Line 8 of the bill.
20 Well, basically, that's all it says, that if the
21 voter's -- that "If the voter's identity can be verified
22 from the documentation presented, the voter shall be
23 accepted for voting." That's the only part that I'm
24 quoting, and then I'm asking what kind of training the
25 poll workers would undergo in identification

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000585
JA_000584

TX_00000585

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 verification.

2 SEN. FRASER: Great question to the
3 Secretary of State.

4 SEN. ZAFFIRINI: To the Secretary of
5 State.

6 Do you worry at all, Senator, and I
7 know -- I believe it was Senator Davis who asked this
8 question earlier: Do you worry at all about people who
9 don't look like their driver's licenses at all?

10 SEN. FRASER: I'm sorry. I -- there's so
11 many things to worry about in life, that's -- you know,
12 the -- the question you're asking, I think, is covered
13 by the Secretary of State; and I believe they would make
14 a determination.

15 SEN. ZAFFIRINI: Well, Senator Fraser, I
16 have distributed Exhibit 4. Would you take a good look
17 at that, please?

18 And, Members, I ask you to please look at
19 my Exhibit 4 and look at the photograph of this driver's
20 license. Has anyone of you ever seen this person
21 before? He looks familiar?

22 SEN. FRASER: Yes.

23 SEN. ZAFFIRINI: Can you identify this
24 person? I'd like to ask this person to stand.

25 (Unidentified person stands)

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000586
JA_000585

TX_00000586

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. ZAFFIRINI: Take a good look. Look
2 at that picture. Look at him. That's right. That --
3 and this picture was taken in 2006. Now, if I didn't
4 know Ray, who is my chief of staff, and I were to look
5 at this picture, I would say, "You're not verified. You
6 can't vote. You're an imposter." Look at the
7 difference. Total difference, and yet this photograph
8 was taken in 2006, and so it's current, it's valid. And
9 you can see if we who know him and have seen him, see
10 him every day, don't recognize his picture, imagine what
11 a poll worker would do with a driver's license like
12 this.

13 UNIDENTIFIED SPEAKER: (Mic off)

14 SEN. ZAFFIRINI: He's not a Laredoan, so
15 don't worry about it.

16 (Laughter)

17 SEN. ZAFFIRINI: Senator Fraser, do you
18 understand why we worry?

19 (Senator Shapiro speaking without mic)

20 SEN. ZAFFIRINI: Well, it's a very good
21 point to make, Senator Shapiro, that we should look at
22 our composite photos; and most of us don't look like
23 them, and yet they have the dates like 2008.

24 SEN. WEST: We keep using those pictures.

25 SEN. ZAFFIRINI: 2009. We sure keep using

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000587
JA_000586

TX_00000587

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 those pictures, so what would happen?

2 My next question, Senator Fraser, focuses
3 on Exhibit 5.

4 And, Members, you have a copy of
5 Exhibit 5.

6 And it is a letter directed to me from
7 Spencer Overton, professor of law from George Washington
8 University. And basically, I received this letter from
9 Professor Overton today, and it directly addresses
10 Senate Bill 14's inconsistency with the Carter-Baker
11 Commission.

12 Specifically, the letter states that
13 Professor Overton wrote this letter to, quote, Refute
14 claims that Senate Bill 14 is consistent with the
15 recommendations of the Carter-Baker Commission. And
16 according to Professor Overton, quote, The Commissioners
17 recommended requiring photo ID of voters only if state's
18 assumed the responsibility to seek out citizens and
19 provide them with an ID free of charge, if states assume
20 the responsibility to seek out unregistered citizens and
21 register them and automatically update the registration
22 of citizens when they move, and if states allow citizens
23 without a photo ID to vote by signing an affidavit under
24 penalty of perjury for the first two federal elections
25 following adoption of the photo ID.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000588
JA_000587

TX_00000588

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Now, Senator Fraser, this bill does not
2 meet any of these criteria. Is that correct? Under
3 your bill, the state would not assume any of these
4 responsibilities?

5 SEN. FRASER: Not advised.

6 SEN. ZAFFIRINI: Well, I assure you,
7 Senator, that it does not. But Professor --

8 SEN. FRASER: I disagree.

9 SEN. ZAFFIRINI: Could you show me it
10 does, where in your bill it would allow this?

11 SEN. FRASER: I'm not advised. This --
12 there's been no representation made that we are modeling
13 this bill after the -- the Carter-Baker recommendations.
14 This bill is moving forward as a bill that when someone
15 votes, they will present an ID to show they are who they
16 say they are. The bill that I'm passing we think will
17 be approved by the Supreme Court and will be approved by
18 Department of Justice.

19 SEN. ZAFFIRINI: Well, then, let me ask
20 you a question. Where in your bill does it specify that
21 the state would assume the responsibility to seek out
22 citizens and provide them with an ID free of charge?

23 SEN. FRASER: I would think it would be
24 your responsibility to show in the bill, you know,
25 your -- the bill speaks for itself.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000589
JA_000588

TX_00000589

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. ZAFFIRINI: So you can't tell me if
2 your bill does that?

3 SEN. FRASER: The bill speaks for itself.
4 The language of the bill is very clear as to what the --
5 the issues we're addressing.

6 SEN. ZAFFIRINI: Okay. Do you know,
7 Senator Fraser, if this -- under your bill, the state
8 would assume the responsibility to seek out unregistered
9 citizens and to register them and automatically update
10 the registration of citizens when they move?

11 SEN. FRASER: I don't believe that is
12 covered in my bill.

13 SEN. ZAFFIRINI: It is not.

14 And do you know, Senator Fraser, if your
15 bill -- under your bill, the state would allow citizens
16 without a photo ID to vote by signing an affidavit under
17 penalty of perjury for the first two federal elections
18 following adoption of the photo ID bill?

19 SEN. FRASER: Every person that votes will
20 be required to have a photo ID.

21 SEN. ZAFFIRINI: Well, basically, it seems
22 to me, my analysis is that Senate Bill 14, as
23 introduced, does not meet these specifications of the
24 Carter-Baker Commission.

25 And what's more, in this letter that you

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000590
JA_000589

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 have, Members, Professor Overton states that, quote,
2 Even President Carter and Secretary Baker rejected the
3 strict photo ID requirement initially adopted in Georgia
4 after concluding it was discriminatory because it was
5 costly or difficult for poor Georgians to obtain the
6 identification for voting, unquote. But according to
7 Professor Overton, quote, It devotes insufficient
8 resources to address the burdens it would impose on
9 Texas voters who lack photo ID.

10 SEN. FRASER: That is absolutely
11 incorrect. The original observation -- the bill that
12 was filed in Georgia was changed, and the bill that
13 originally -- that is in law now, that was not their
14 observation. And that was written in 2005. The bill
15 was replaced 2008. That was not their observation.

16 SEN. ZAFFIRINI: Well --

17 SEN. FRASER: That it was -- I saw that
18 comment made in a 2005 comment, but you're also making
19 sure you don't take it out of context. And the -- the
20 law that had been passed by Georgia was revisited. They
21 passed a different law, and then that law was -- that
22 bill was precleared by Department of Justice.

23 SEN. ZAFFIRINI: But it still required --

24 SEN. FRASER: So the bill he's --

25 SEN. ZAFFIRINI: -- photo ID.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000591
JA_000590

TX_00000591

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: -- addressing is not law --
2 current law in Georgia.

3 SEN. ZAFFIRINI: But the Georgia law still
4 requires a photo ID.

5 SEN. FRASER: Yes, it does.

6 SEN. ZAFFIRINI: It does.

7 And finally, Professor Overton closes with
8 his statement that the current proposal for a photo ID
9 law in Texas is inconsistent with the recommendations of
10 the Carter-Baker Commission.

11 SEN. FRASER: I disagree with that.

12 SEN. ZAFFIRINI: Why, Senator?

13 SEN. FRASER: I just disagree with that.

14 SEN. ZAFFIRINI: Are there any specific
15 points that you disagree with that he made or that I
16 quoted in his letter?

17 SEN. FRASER: I'm -- you know, the letter
18 that you're laying out is -- the first time I've seen it
19 is just then. We're -- our bill is not -- we're not
20 trying to model it after that, but the Carter-Baker
21 Commission very clearly recommended a photo ID.

22 SEN. ZAFFIRINI: Well, Senator, the reason
23 that we asked for this letter, we followed up on your
24 early statement when you laid out the bill. And you
25 referred to the Carter-Baker Commission, and it was

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000592
JA_000591

TX_00000592

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 based on your statement that we followed up and did this
2 immediate research and got this letter written to us.

3 SEN. FRASER: Will you show me where I
4 referred to it in my opening statement?

5 SEN. ZAFFIRINI: Well, I don't have the
6 transcript yet; but as I recall, you referred to it in
7 your opening statement.

8 SEN. FRASER: Do you want me to read what
9 I said again from the opening statement?

10 SEN. ZAFFIRINI: Yes, would you?

11 SEN. FRASER: I read two --

12 SEN. ZAFFIRINI: Your copy to the -- your
13 reference to the Carter-Baker Commission report.

14 SEN. FRASER: I said, "The Carter-Baker
15 Commission reaffirms the dangers. Elections are at the
16 hard democracy. Americans are losing confidence in the
17 fairness of elections, and while we do not face a crisis
18 today, we need to address the problems of our electoral
19 system. At the end of the day, there's considerable
20 national evidence of in-person fraud; and regardless of
21 whether one believes that voter impersonation is
22 widespread or relatively rare, there can be no serious
23 dispute that -- that real effect can be substantial
24 because in a close election, even a small amount of
25 fraud could take -- be the margin of difference."

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000593
JA_000592

TX_00000593

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. ZAFFIRINI: Well, sir.

2 SEN. FRASER: That was a quote that was
3 made. It was -- it was used not only there, but it is
4 also used later in the Supreme Court decision.

5 SEN. ZAFFIRINI: Right. And, Senator
6 Fraser, it is because I was surprised at that statement
7 that we followed up, and it seems that that is in the
8 report. But there is other information in addition to
9 that, so I could turn around and say, "Well, are you
10 taking it out of context?" I won't raise that question
11 as a courtesy, but I could raise it.

12 But on the other hand, what I want to make
13 very clear is that the reason we followed up was that
14 you made this opening statement.

15 SEN. FRASER: Your letter is dated January
16 the 24th. I made the statement this morning. Was --
17 did I make the statement, and then he -- he wrote the
18 letter and sent it to you today?

19 SEN. ZAFFIRINI: Well, I requested it
20 today, so that's perhaps a typo because we received it
21 today. Let me check. We received it -- we received it
22 this morning.

23 SEN. FRASER: Before I made the statement?

24 SEN. ZAFFIRINI: It should be
25 January 25th.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000594
JA_000593

TX_00000594

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: But you -- you said that you
2 responded -- that you requested it after I made the
3 statement in my --

4 SEN. ZAFFIRINI: I requested --

5 SEN. FRASER: -- opening comments.

6 SEN. ZAFFIRINI: I requested this
7 information based on your opening statement, and I
8 received this letter today. That's correct. Okay?

9 Thank you very much, Senator. I
10 appreciate, as I said, your courtesy and your patience.

11 SEN. FRASER: Thank you.

12 CHAIRMAN DUNCAN: Members, we've been
13 going for a while, and I think it would be -- we're kind
14 of at a -- maybe getting close to a breaking point. Why
15 don't we go ahead and take a ten-minute break and then
16 reconvene, give the court reporter and staff a minute or
17 two to rest. So at a time certain, we'll stand at ease
18 until 2:30.

19 (Recess: 2:21 p.m. to 2:34 p.m.)

20 CHAIRMAN DUNCAN: Senate Committee of the
21 Whole will come back to order. Senator Hinojosa?

22 SEN. HINOJOSA: Thank you, Mr. Chairman.
23 Senator Fraser?

24 SEN. FRASER: These are actually pretty
25 good.

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. HINOJOSA: Can you hear me?

2 SEN. FRASER: Yes, this is -- these are
3 much better. Yes, I do. I can hear you.

4 SEN. HINOJOSA: I just have a few
5 questions that I'd like to follow up on.

6 Do you know how many people are registered
7 to vote here in the state of Texas?

8 SEN. FRASER: Oh, I do -- I'm sorry, I do
9 not know.

10 SEN. HINOJOSA: Approximately, 13 million.

11 SEN. FRASER: Okay. 13, yeah. Okay.

12 SEN. HINOJOSA: Yeah. And do you know how
13 many voted in the last election?

14 SEN. FRASER: No, I'm not advised on that
15 either. I'm sorry.

16 SEN. HINOJOSA: Close to 5 million voters
17 voted this last election. And do you know how many
18 people were arrested or prosecuted or indicted for
19 trying to use somebody else's voter registration card?

20 SEN. FRASER: I'm sorry, not -- no, I do
21 not have that number.

22 SEN. HINOJOSA: None?

23 SEN. FRASER: I don't -- I don't have the
24 number, I'm sorry. I'm not advised.

25 SEN. HINOJOSA: Well, do you have any

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000596
JA_000595

TX_00000596

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 evidence?

2 SEN. FRASER: I'm sorry?

3 SEN. HINOJOSA: Do you have any evidence?

4 SEN. FRASER: Evidence?

5 SEN. HINOJOSA: Yeah, evidence to support
6 your bill about voter fraud when they go to vote?

7 SEN. FRASER: Senator, you know the thing
8 that we're trying to address here is that, as you know,
9 it's virtually impossible to detect voter fraud because
10 our current law makes it impossible not only to -- to
11 verify that they're voting illegally, but even if you
12 catch them, we don't have the ability to stop them from
13 voting. So the -- the ability to stop someone today
14 voting illegally is almost impossible in Texas. That's
15 the thing that I'm trying to address with my bill, is
16 that we believe if we make them show a voter ID, then we
17 will know that they are who they represent themselves to
18 be.

19 SEN. HINOJOSA: Actually, Senator Fraser,
20 back home, most of the election judges know who the
21 voters are in their precincts.

22 SEN. FRASER: Well, that's interesting.
23 Back home, in the area you're from, most of the -- or a
24 lot of the stories that I've seen reported to the
25 media -- and actually, you've got two voter registrars

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000597
JA_000596

TX_00000597

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 through your area that have endorsed this concept
2 because they are -- they are having a problem with voter
3 fraud, and I -- that actually -- I'm -- I'm responding
4 to things I've read they've said in the media. But I
5 believe there are numerous registrars that believe this
6 is a -- a large problem.

7 SEN. HINOJOSA: Well, I hear what you're
8 saying, but I don't see any evidence. There's a lot of
9 anecdote, a lot of rumors and guessing and speculation,
10 which I don't think it's a way to make good public
11 policy.

12 Are you familiar with the Carter-Baker
13 Commission on federal election reform?

14 SEN. FRASER: Senator, what are you -- I'm
15 sorry. What --

16 SEN. HINOJOSA: Are you familiar with the
17 Carter-Baker Commission on federal election reform?

18 SEN. FRASER: Yes, I am.

19 SEN. HINOJOSA: Okay. Are you aware that
20 by putting a requirement of having a photo ID to be able
21 to vote, that there are approximately 3 million
22 registered voters in the state of Texas that do not have
23 voter ID?

24 SEN. FRASER: I don't know where you get
25 that number.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000598
JA_000597

TX_00000598

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. HINOJOSA: Well, if you look at
2 3 million people who are going -- who will be kept from
3 voting as compared to you cannot show anybody getting
4 prosecuted -- getting prosecuted and convicted voter
5 fraud, that's one big difference, one big price to pay
6 for a bill that you don't have any evidence to support
7 there's voter fraud.

8 SEN. FRASER: One second, Senator. My --
9 my iPhone is interfering with my microphone.

10 The 3 million number, where do you get
11 that?

12 SEN. HINOJOSA: That's the estimate by the
13 Carter-Baker Commission on federal election reform that
14 here in Texas --

15 SEN. FRASER: Can you -- can you show me
16 where it says in that Commission report? I don't
17 remember.

18 SEN. HINOJOSA: Yes, sir, it's a letter
19 dated January 24th, 2011, from Professor Spencer Overton
20 addressed to Senator Judy Zaffirini where he states that
21 approximately 3 million Texas voters do not have photo
22 ID.

23 SEN. FRASER: Senator, that is --
24 (Simultaneous speaking)

25 SEN. FRASER: -- pure speculation by that

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000599
JA_000598

TX_00000599

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 gentleman. He has nothing to base that on, and that is
2 not in reference to the Carter-Baker report. That is a
3 estimation by some, you know, political hack that --
4 that y'all have asked to write a letter.

5 SEN. HINOJOSA: Well, actually, I thought
6 it was the opposite. I thought your side was pure
7 speculation. Thank you.

8 CHAIRMAN DUNCAN: The chair recognizes
9 Senator Williams.

10 SEN. WILLIAMS: Thank you, Mr. Chairman.
11 Would Senator Fraser yield for some
12 questions?

13 SEN. FRASER: I will yield.

14 SEN. WILLIAMS: Senator Fraser, there's
15 several things that I wanted to clear up for the record.

16 The first, I'd like to make a reference
17 back to the Secretary of State has recently sent this
18 letter -- she sent it over today -- that indicated that
19 there would be probably \$2 million of the HAVA funds
20 that would be available for voter education, to help
21 fund the voter education efforts that we would have in
22 connection with this bill. And it would be -- normally,
23 it would be the Secretary of State's office who would
24 develop what those problem programs are with taking into
25 account our legislative intent about what we're trying

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 to accomplish. Is that right?

2 SEN. FRASER: Yes.

3 SEN. WILLIAMS: The other thing that I
4 wanted to correct, for the record, Senator Watson opined
5 earlier that a lot of this funding for these items had
6 been struck in the budget, and actually, I went back and
7 pulled a copy of the budget. I had not looked at this
8 part, and so there were some budget riders that had
9 expired and that were no longer relevant in the current
10 budget. Those were struck. And under Strategy B.1.4,
11 under elections improvement, administer Federal Help
12 America Vote Act, we actually have, it looks like, a
13 total of about \$43 million over the next biennium that's
14 been appropriated in the budget that Senator Ogden laid
15 out for us earlier. So I just wanted to clear that up
16 for the record because that's kind of been a moving
17 target.

18 Another question that I had for you was
19 the -- I wanted to go back, if I could, and -- and just
20 touch on what my understanding after hearing all this
21 questioning that's gone on, what your -- the purpose of
22 your bill is -- really is to deter and detect fraud
23 in-person voter fraud at the polls. Is that correct?

24 SEN. FRASER: That is correct.

25 SEN. WILLIAMS: Okay. And has the United

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 States Supreme Court -- I believe they've stated that
2 it's been documented throughout our nation's history by
3 respected historians and journalists, and they
4 demonstrate not only that the risk of voter fraud is
5 very real, but they could affect the outcome in a close
6 election. Does Senate Bill 14 provide the kind of
7 safeguard against that fraud that might be crucial in an
8 election?

9 SEN. FRASER: Yes, it does, Senator.

10 SEN. WILLIAMS: Now, we've had some close
11 elections, even in the Texas Legislature. I know over
12 in the House right now, there is an election contest
13 that's been -- for Senate, State House District 48.
14 It's being contested. The last numbers that I saw from
15 the Secretary of State showed that Donna Howard had won
16 her seat by 12 votes, which amounts to .02 percent of
17 all the votes cast in that race. And, of course, back
18 in 2008, Linda Harper Brown up in Dallas County defeated
19 her opponent by 19 votes, or .05 percent of the total
20 votes cast in that race.

21 Are those the kind of close elections you
22 think that the Supreme Court might have been referencing
23 when they said in Crawford 533 U.S. at 11-12 that
24 it's -- the threat's not only real, but it's actually --
25 you know, it demonstrates it's not real, but it could

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000602
JA_000601

TX_00000602

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 affect the outcome of a close election?

2 SEN. FRASER: The answer is absolutely,
3 yes, and it actually the -- it's even closer to home.
4 Senator Jackson, when he was elected to the Texas House,
5 ended up winning by seven votes.

6 SEN. WILLIAMS: Landslide Jackson --

7 SEN. FRASER: Landslide Jackson.

8 SEN. WILLIAMS: -- I think they called
9 him.

10 SEN. FRASER: So if -- fraud, in an
11 election like that, could have changed history.

12 SEN. WILLIAMS: Senator Fraser, Senate
13 Bill 14 provides safeguards to protect the reliability
14 and integrity of our voting system, especially those in
15 close elections like we've just talked about?

16 SEN. FRASER: Yes.

17 SEN. WILLIAMS: Okay. I believe in this
18 Crawford v. Marion, on Page 10, the Supreme Court brief,
19 they quoted -- the United States Supreme Court quoted
20 the Carter-Baker report that has been referenced here.
21 And in that report, their quote was, "There's no
22 evidence of extensive fraud in the U.S. elections or of
23 multiple voting, but both occur, and it could affect the
24 outcome of a close election. The electoral system
25 cannot inspire public confidence if no safeguards exist

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000603
JA_000602

TX_00000603

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 to deter or detect fraud or to confirm the identity of
2 voters. Photo identification cards currently are needed
3 to board a plane, enter federal buildings, and cash a
4 check. Voting is equally important."

5 Is that your understanding? Is Senate
6 Bill 14 designed to inspire that public confidence in
7 close elections like --

8 SEN. FRASER: Yes, it is.

9 SEN. WILLIAMS: -- we talked about?

10 Senator Fraser, do you recall the
11 testimony and exhibits that we provided in 2009 -- now
12 it's been admitted earlier today as Exhibit 1 -- that
13 detail the extensive voter fraud in Harris County and
14 other areas of the state?

15 SEN. FRASER: Yes, I'm very familiar with
16 it.

17 SEN. WILLIAMS: Okay. Senator, having
18 listened to what I heard and just read a minute ago from
19 the Carter-Baker Commission and the language that was
20 adopted from them in the Supreme Court brief, are you
21 aware of how difficult it is to not only to discover but
22 to prosecute voter fraud?

23 SEN. FRASER: Yes, it is very difficult.

24 SEN. WILLIAMS: And having said that,
25 do -- do you think that that's one of the reasons we

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000604
JA_000603

TX_00000604

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 don't see many of these cases that are prosecuted
2 because if someone is voting deceptively as someone
3 else, it's going to be very difficult to discover that
4 if they're successful?

5 SEN. FRASER: And that was recognized by
6 the U.S. Supreme Court in their decision.

7 SEN. WILLIAMS: So are you offering Senate
8 Bill 14 as a tool for the state of Texas to detect and
9 deter this type of voter fraud and further inspire
10 confidence in our voters and the voting system, to make
11 sure that all Texans and all of our elections are
12 conducted with the upmost integrity and equity to all
13 Texans?

14 SEN. FRASER: Absolutely. That would be
15 my reasoning.

16 SEN. WILLIAMS: Okay. Couple of things
17 that I just think that it was important to get back into
18 the record again about what the Supreme Court actually
19 said in Crawford v. Marion; and all of this, of course,
20 was included in the record last time.

21 I thought it was interesting that Justice
22 Stevens comments about this. He said first, the state
23 has an interest in deterring and detecting voter fraud.
24 They have a valid interest in participating in a
25 nationwide effort to improve and modernize the election

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000605
JA_000604

TX_00000605

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 procedures that have been criticized as antiquated and
2 inefficient, and the state, in that case, also argues
3 that it has a particular interest in preventing voter
4 fraud in response to a problem that is, in part, the
5 product of its own maladministration; namely, that in
6 the case -- in this case, Indiana's voter registration
7 roles included a large number of people who were either
8 deceased or no longer live in Indiana.

9 Now, Senator Fraser, when I look back at
10 the record that we had introduced as Exhibit 1 today,
11 didn't that record include many, many instances where we
12 had people who were registered at fictitious addresses
13 who had been voting or people who were deceased? I
14 think my own brother came and testified that our
15 grandfather had voted for 62 years after his death, and
16 my grandmother had a very difficult time trying to get
17 him taken off the voter roles and, in fact, had not been
18 able to do so.

19 SEN. FRASER: Yes, I'm -- I'm -- remember
20 that very well.

21 SEN. WILLIAMS: Okay. And so, you know,
22 there's been a lot of talk about the burden on people,
23 and Senator Davis made some very compelling and
24 interesting remarks in her comments. But I would say
25 that, you know, wouldn't you think that especially for

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 the elderly, which we've had a big focus on here today,
2 of the inconvenience on elderly voters, people who are
3 age 65, don't they have an opportunity to use a mail-in
4 ballot and they completely bypass any restrictions that
5 your bill or inconveniences that it might cause them?

6 SEN. FRASER: I'm actually surprised at
7 the percentage now of people that do mail in ballots.
8 That percentage continues to increase, and so someone
9 that did have a problem getting to the polls -- and, you
10 know, I gave the example last year of my -- my mother in
11 the retirement center, that she couldn't get to the --
12 it was too much -- it's too hard for her to get to the
13 polls, but she voted by mail. And there's -- there are
14 people in that category, and we have that safeguard in
15 Texas.

16 SEN. WILLIAMS: Well, and -- and I think
17 we all care about everyone being able to exercise their
18 constitutional right to vote, and along with the
19 provisions that you have for people that are 70 and over
20 plus the mail-in ballots and the fact that provisional
21 ballots can be cast and allow people with expired
22 licenses and that sort of thing the opportunity to prove
23 up who they are, don't you think that addresses many of
24 the concerns that have been raised here today?

25 SEN. FRASER: Absolutely. They -- and

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 that was our intent, is that obviously, we want to make
2 sure everyone is afforded the -- the ability to vote,
3 and we think we have those provisions in place so that
4 all Texans, every Texan, will be allowed to vote.

5 SEN. WILLIAMS: Well, I -- I think it's
6 also interesting, and you've noted several times today,
7 that so far as we could determine from our research,
8 there isn't a single voter in Indiana or Georgia who's
9 raised the issue that they've been disenfranchised since
10 those laws have been enacted. Is that true, to the best
11 of your knowledge?

12 SEN. FRASER: To the best of my knowledge.
13 And we have asked that question repeatedly, and to the
14 best of our knowledge, we have -- not a single person
15 has come forward in either state.

16 SEN. WILLIAMS: And I think it's -- you
17 know, when I look at the syllabus of the Crawford v.
18 Marion County election board case that went to the Texas
19 Supreme Court, they note in the syllabus that there's no
20 question about the legitimacy or importance of the
21 State's interest in counting only eligible votes. And I
22 think they go on to say that -- that requiring that and
23 the fact that the cards in the Indiana case, as we're
24 doing, they make those cards free. The inconvenience of
25 going -- of gathering the required documents, posing for

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000608
JA_000607

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 a photograph, does not qualify as a substantial burden
2 on most voters' right to vote or represent a significant
3 increase over the usual burdens of voting. And I think
4 that's interesting that that was noted.

5 And those provisions that we have are
6 essentially -- in your bill, there are very similar
7 provisions with respect to those matters. Correct?

8 SEN. FRASER: They -- yes, and I want to
9 clarify. The Crawford case went to the U.S. Supreme
10 Court, and those observations were made in the -- the
11 majority opinion.

12 SEN. WILLIAMS: Now, they go on to say
13 that it's generally applicable, nondiscriminatory voting
14 regulation, it's universally applicable, it's imminently
15 reasonable because the burden of acquiring, possessing,
16 and showing a free photo identification is not a
17 significant increase over the usual voting burdens, and
18 the State's interest are sufficient to sustain whatever
19 those minimal burdens are.

20 So we know there's some inconvenience, but
21 we've done everything we can to make that inconvenience
22 as insignificant as possible. Is that --

23 SEN. FRASER: I will actually go with that
24 in the -- the Crawford/Indiana case.

25 SEN. WILLIAMS: Just in closing, in my

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 final comments as -- before we go to take testimony, I
2 just think that it's noteworthy to look back at what the
3 opponents of this legislation have said on the floor
4 thus far today, and what I've heard is very little
5 debate about the actual content of your legislation.
6 And I think that speaks to the fact that it's
7 unequivocally a good idea that people ought to be able
8 to be positively identified as who they say they are
9 when they come to vote.

10 What I've heard today is a lot of talk
11 about procedures, even though what we're doing is very
12 normal for a Committee of the Whole, and it's the same
13 procedure that we used the last session when we
14 considered this. Is that correct, Senator Fraser?

15 SEN. FRASER: It is, and I think it's very
16 difficult for a member to argue the merits of the bill
17 when it's so straightforward when you ask someone in
18 their district do they think that someone should --
19 should have -- be required to show a photo ID when they
20 vote, that you've got near 90 percent of the population
21 across the state of Texas. Again, every one of these
22 members, it's hard to argue of the merits -- argue the
23 merits of the bill.

24 SEN. WILLIAMS: Yeah, the other thing that
25 I've heard that I think is interesting is fiscal notes.

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 A lot of talk about fiscal notes, even though we have a
2 letter from the Secretary of State that states that
3 there are going to be HAVA funds that will be available
4 to help with the voter education, and I think we're
5 going to have testimony in a few moments.

6 And I tried to clarify that early on that
7 the cost of issuing for the state these free ID cards is
8 less than \$2. It's a very minimal cost, and with almost
9 16 million people that we have who have a driver's
10 license or -- or an ID card now, it seems unlikely that
11 there's going to be a whole lot of people out of that
12 13 million that actually don't already have a driver's
13 license or a state ID card.

14 In fact, Senator Fraser, I spoke last
15 night with the Department of Public Safety and today
16 with the Secretary of State and just asked them if it
17 would be possible for us to target those voters who are
18 below age 65 and have -- don't have an ID card, a
19 driver's license or an ID card issued by the state; and
20 they said, yes, it would be possible for us to direct
21 our voter education to those people specifically so that
22 we could step it up and let them know before your bill
23 takes effect -- not till, when, in January? Is that --
24 am I remembering that correctly?

25 SEN. FRASER: January, 2012.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000611
JA_000610

TX_00000611

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WILLIAMS: So a year from now. So
2 we've got a lot of time to let these people know what's
3 coming.

4 And then the other thing I've heard a lot
5 about is current law, and, you know, there's been a lot
6 of discussion. In fact, a lot of what we've talked
7 about is what's actually on the books right now, and
8 your bill is not touching any of that top side or
9 bottom. Really, most of what you do is very limited by
10 changing what the requirements are when you come to the
11 polls. Is that correct? There's not any other real
12 substantive change to election law here.

13 SEN. FRASER: We're only addressing the --
14 the actual in-person voting and the identification
15 required when somebody votes in person. We're not
16 addressing mail-in ballots or any of the other
17 provisions. It's just that one section.

18 SEN. WILLIAMS: Well, thank you for
19 allowing me to question you about this and I appreciate
20 you bringing this issue before us and I especially
21 appreciate the fortitude that you've shown during this
22 long debate. Thank you.

23 SEN. FRASER: Thank you, Senator.

24 CHAIRMAN DUNCAN: Chair recognizes Senator
25 Shapiro.

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. SHAPIRO: Thank you, Mr. Chairman.

2 I would just like to ask one question
3 because we're getting mixed signals, and I just want to
4 make sure. It's just going to take a yes-or-no answer,
5 and I think that will be the easiest.

6 In Section 7 of your bill, which is
7 actually on Page 5, the requirements for identification
8 prescribed for people who do not have to have a vote --
9 a photo ID, where it references their age, does the bill
10 require that people 70 or older present a voter
11 registration card and that they be at least 70 years of
12 age on January 1st, 2012?

13 SEN. FRASER: My understanding and this
14 is, again, something probably the Secretary of State
15 will address, but I believe your age is -- is on the
16 card. So if someone is 70 on January 1, 2012, they will
17 not be asked to show a photo ID.

18 SEN. SHAPIRO: Okay. And this is
19 something that the Secretary of State has put into this
20 bill?

21 SEN. FRASER: No. No, I --

22 SEN. SHAPIRO: This is something that you
23 have --

24 SEN. FRASER: -- inserted it into the
25 bill. It'd be your interpretation --

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000613
JA_000612

TX_00000613

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. SHAPIRO: I got you.

2 SEN. FRASER: -- to -- to make sure --

3 SEN. SHAPIRO: Identify whether it's at
4 hand?

5 SEN. FRASER: -- that they can identify
6 themselves --

7 SEN. SHAPIRO: Okay.

8 SEN. FRASER: -- but it's not intended
9 that they would -- I believe they're --

10 SEN. SHAPIRO: Separate.

11 SEN. FRASER: Yes.

12 SEN. SHAPIRO: It's not intended to be
13 separate. It's intended --

14 SEN. FRASER: No.

15 SEN. SHAPIRO: -- to be the same document.

16 SEN. FRASER: Yes, as long as they're --

17 SEN. SHAPIRO: Okay.

18 SEN. FRASER: -- you know, 70 on
19 January 1, 2012.

20 SEN. SHAPIRO: And the date of birth is on
21 our current voter registration card?

22 SEN. FRASER: You need to ask that of the
23 Secretary of State.

24 SEN. SHAPIRO: Okay. And my recollection
25 is it is. Thank you.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000614
JA_000613

TX_00000614

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: Okay.

2 CHAIRMAN DUNCAN: Chair recognizes Senator
3 Huffman.

4 SEN. HUFFMAN: Thank you, Mr. Chairman.

5 Senator Fraser, will you yield for a
6 couple of questions?

7 SEN. FRASER: I would love to yield.

8 SEN. HUFFMAN: Thank you, sir. I'd like
9 to commend you, too, for a long day of answering a lot
10 of tough questions.

11 SEN. FRASER: Thank you.

12 SEN. HUFFMAN: But I think it's important,
13 as we kind of wrap this part of the procedures up today,
14 that -- that we circle back to -- to the idea and the
15 concept that -- that we got here today. But there is a
16 line of Supreme Court cases that have brought us here.
17 Would you agree with that?

18 SEN. FRASER: Yes.

19 SEN. HUFFMAN: And certainly, the Crawford
20 v. Marion case gives us guidance on how to do what we're
21 doing here today properly. Would you agree --

22 SEN. FRASER: I think that's the one --

23 SEN. HUFFMAN: -- with that?

24 SEN. FRASER: -- was referenced, I think,
25 in the Indiana case, I believe.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000615
JA_000614

TX_00000615

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. HUFFMAN: Okay.

2 SEN. FRASER: And that's yes.

3 SEN. HUFFMAN: And did you, as you sat
4 down with your staff and so forth in, you know,
5 pre-session, in the interim, and you started thinking
6 about this bill and so forth, did you and your staff
7 take into consideration Crawford v. Marion and try to
8 follow the law and the rules the Supreme Court has laid
9 out for us?

10 SEN. FRASER: Yes, without a doubt.
11 That's already been approved by the Supreme Court, and
12 obviously, we wanted to make sure we stayed within those
13 parameters.

14 SEN. HUFFMAN: All right. Now, you know,
15 the Supreme Court, I think -- we know that the Supreme
16 Court has told us that there is a balancing test, and we
17 understand that the right to vote is sacred. And so we
18 know that the law tells us that if there is a burden
19 placed upon a voter, that they're going to look very
20 carefully at that; and it's going to have weight, but
21 it's going to be balanced against legitimate state
22 interest. And so I think what we need to explore, just
23 briefly, is that, in fact, we -- we have legitimate
24 state interest. The state of Texas has an interest to
25 make sure that our elections are done with -- well, as

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000616
JA_000615

TX_00000616

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 perfect as we can get them but with integrity, right,
2 and with voter confidence.

3 So as you prepared the bill and as you
4 look at the bill -- and the Supreme Court has told us
5 that there are legitimate interests, and they define
6 those for us. So as you prepared the bill and you look
7 at Senate Bill 14 today, do you think that it addresses
8 the relevant and legitimate concerns of deterring and
9 detecting voter fraud? And I know you've been asked
10 this question a lot.

11 SEN. FRASER: Absolutely.

12 SEN. HUFFMAN: Right. Do you think that
13 it -- that it's important in that the bill will help to
14 improve and modernize the election procedures of Texas?

15 SEN. FRASER: Yes.

16 SEN. HUFFMAN: Do you think that there's a
17 larger scheme nationwide through the Help America Vote
18 Act and the National Voter Registration -- Registration
19 Act to do just that, to make elections come up to modern
20 times?

21 SEN. FRASER: Absolutely.

22 SEN. HUFFMAN: Do you think that Senate
23 Bill 14 will help to prevent voter fraud and actually
24 help to ensure that only the votes of eligible Texas
25 voters are counted in these crucial elections that

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000617
JA_000616

TX_00000617

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 happen in the state of Texas?

2 SEN. FRASER: That is our intent, and we
3 believe the bill does that.

4 SEN. HUFFMAN: And do you believe that
5 once we have established these safeguards, that the
6 voters will feel more confident about their vote being
7 counted and only the votes of registered Texans who can
8 vote to be counted?

9 SEN. FRASER: Yes, that is our belief.

10 SEN. HUFFMAN: Do you think that once
11 that's established, that it will actually encourage the
12 democratic process and that it will encourage more
13 voters to go to the polls?

14 SEN. FRASER: The thing we've seen in
15 other states that have implemented photo ID, the -- the
16 voter turnout actually increased. And so, yes, we
17 believe the confidence in the voters will increase, and
18 we believe it will actually increase the voting
19 percentages.

20 SEN. HUFFMAN: Now, we've heard comments
21 today from many senators, Senator Whitmire, Senator
22 Davis, Senator Uresti, about hypothetical burdens that
23 may be placed on some hypothetical voter. But taking
24 that into account and looking at and trying to balance
25 it, do you feel like we have a bill here that -- that

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000618
JA_000617

TX_00000618

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 presents and moves forward our legitimate interest in
2 Texas as it regards voting?

3 SEN. FRASER: Without a doubt.

4 SEN. HUFFMAN: All right.

5 SEN. FRASER: We believe it does.

6 SEN. HUFFMAN: Thank you very much,
7 Senator Fraser.

8 SEN. FRASER: Thank you, Senator.

9 SEN. HUFFMAN: Thank you.

10 CHAIRMAN DUNCAN: Chair recognizes Senator
11 Wentworth.

12 SEN. WENTWORTH: Thank you, Mr. Chairman.
13 Will the gentleman yield?

14 SEN. FRASER: I will yield.

15 SEN. WENTWORTH: Senator, I want to
16 compliment you on your long hours of being on your feet
17 in responding to these questions. I just wanted to
18 touch on a couple of things.

19 One is we had -- we had some testimony
20 here two years ago on a very similar bill, and I just
21 wanted -- since it's been raised earlier today, the
22 issue about whether or not maybe passage of this bill
23 would reduce voter participation. There are only a
24 couple of other states, Indiana and Georgia, where these
25 sorts of bills have been passed. One of the witnesses

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000619
JA_000618

TX_00000619

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 in March of '09 said to us: Not only does voter ID help
2 prevent fraudulent voting, but where it has been
3 implemented, it has not reduced turnout. There is no
4 evidence that voter ID decreases the turnout of voters
5 or has a disparate impact on minority voters, the poor,
6 or the elderly. The overwhelming majority of Americans
7 have photo ID or can easily obtain one.

8 Now, this is in the record from the 2009
9 hearing, which we've already adopted, but I just wanted
10 to recall some of the testimony that we had.

11 Another quote was: Recent election
12 results in Georgia and Indiana also confirmed that the
13 suppositions that voter ID will hurt minority turnout
14 are incorrect.

15 In addition -- and I'm not sure whether
16 this was part of the record in '09, but there is a study
17 of Indiana's photo ID law that was conducted by a
18 University of Missouri professor. He found that
19 requiring identification doesn't have much impact on
20 voter turnout rates. His name is Jeffery Milyo. He's
21 professor of economics and public affairs at the
22 University of Missouri, a part of the Institute of
23 Public Policy of the Harry S. Truman School of Public
24 Affairs.

25 And his conclusion is -- if I can find it

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000620
JA_000619

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 quickly -- it's a many-page study, and his conclusion is
2 that the findings that emerge from his analysis are that
3 photo ID is associated with an overall county level
4 turnout increase of almost 2 percentage points -- and
5 this is just in Indiana. This isn't Georgia as well --
6 an insignificant increase in relative turnout for
7 counties with a greater percentage of minority and poor
8 population; no consistent or significant impact on
9 relative turnout in counties with a greater percentage
10 of less educated or elderly voters; and finally, a
11 significant relative increase in turnout for counties
12 with a higher percentage of Democrat voters.

13 I was just wondering if you remembered
14 those things that were testified to two years ago or
15 whether you were familiar with this university
16 professor's study.

17 SEN. FRASER: Thank you for bringing that
18 forward. It -- yes, I -- now, as you mention it, I do
19 remember it. The other thing that comes to mind that
20 was through the testimony two years ago is in the '09 --
21 I'm sorry -- the '08 president election for '09, that
22 even though the president was from Illinois, the
23 adjoining state, Indiana, had doubled the increase of
24 voting next door in the state -- in Indiana where they
25 had put in photo ID. Illinois did not have it, but the

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000621
JA_000620

TX_00000621

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 increase was double the amount of increase next door.
2 So it certainly didn't show that they were hurt by the
3 implementation of the --

4 SEN. WENTWORTH: Where Indiana has a photo
5 ID law --

6 SEN. FRASER: Illinois does not.

7 SEN. WENTWORTH: Thank you very much,
8 Senator.

9 SEN. FRASER: Thank you, Senator.

10 CHAIRMAN DUNCAN: Okay. Members, we
11 have -- that completes all of the Members who want to
12 ask questions of the author. You can sit down for a
13 second, Senator, if you want to. Take a rest.

14 We have a little bit of housecleaning.
15 There's a few witnesses that -- or a few exhibits that
16 may want to go in that we have now made copies of. I
17 think, Senator Van de Putte, you had -- Senator
18 Zaffirini had Exhibit 6 which was a map of the DPS, and
19 we've now had that copied and available to distribute.
20 Do you want to go ahead and offer it into the record?

21 SEN. VAN de PUTTE: Yes, I will.

22 CHAIRMAN DUNCAN: Okay. It'll be
23 received.

24 (Exhibit No. 6 marked and admitted)

25 CHAIRMAN DUNCAN: And then I believe we

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 had -- Senator Davis had a chart that -- excuse me.

2 SEN. VAN de PUTTE: Mr. Chairman, do -- I
3 move to add to Exhibit 6 the counties with Department of
4 Public Safety Driver's License Office Closures prepared
5 by legislative counsel.

6 CHAIRMAN DUNCAN: Okay. Thank you. That
7 will be received in the record.

8 Senator Davis, you had an exhibit that you
9 wanted to offer.

10 SEN. DAVIS: Yes, Mr. Chair. I'd like to
11 add that as -- I guess it would be Exhibit No. 7 to the
12 record.

13 CHAIRMAN DUNCAN: And I think we have
14 copies to distribute to the Members? Would you describe
15 it, please?

16 SEN. DAVIS: Yes, I'm sorry. It's the
17 chart that I displayed and talked about earlier in my
18 questions of Senator Fraser. It's exact -- an exact
19 replica of the chart that was displayed on the Senate
20 floor.

21 CHAIRMAN DUNCAN: It has a -- it's a
22 graphic that has a -- at the top, a title that says,
23 "DL/State ID." Okay. Exhibit 7 will be received in the
24 record.

25 SEN. DAVIS: Thank you.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000623
JA_000622

TX_00000623

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 (Exhibit No. 7 marked and admitted)

2 CHAIRMAN DUNCAN: Are there any other
3 exhibits that --

4 SEN. FRASER: Mr. President?

5 CHAIRMAN DUNCAN: -- were discussed that
6 we'd like to include? Senator Fraser?

7 SEN. FRASER: And I had one that I
8 mentioned that I was going to enter in that I have not
9 yet. It is the Lighthouse Opinion Poll. This is the
10 most current poll that is taken and has a very good
11 breakout of not only across the state, the regions, but
12 also has a breakout, Republican, Democrat, and it breaks
13 out for the African American, Hispanic, and --

14 CHAIRMAN DUNCAN: Do you have copies of
15 that to distribute?

16 SEN. FRASER: I have one copy.

17 CHAIRMAN DUNCAN: Okay. Well, Exhibit 8
18 will be received, but if you'll go ahead and get copies
19 so that we can distribute those at this time.

20 (Exhibit No. 8 marked and admitted)

21 SEN. GALLEGOS: Mr. President?

22 CHAIRMAN DUNCAN: Senator Gallegos, for
23 what purpose?

24 SEN. GALLEGOS: I have also some diagrams,
25 but I wasn't going to present them until the time of my

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000624
JA_000623

TX_00000624

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 amendments. I mean, do they need to be entered now or
2 at the time of the amendment?

3 CHAIRMAN DUNCAN: I don't see any problem
4 with entering them at the time when it's relevant to
5 what you're trying to do.

6 SEN. GALLEGOS: Yeah.

7 CHAIRMAN DUNCAN: You can put them in the
8 record at that time --

9 SEN. GALLEGOS: Okay.

10 CHAIRMAN DUNCAN: -- when we're --

11 SEN. GALLEGOS: Then I'll wait till --
12 till the time of the amendment. Thank you,
13 Mr. President.

14 CHAIRMAN DUNCAN: All right. Members, the
15 next phase is the invited testimony.

16 And Senator Van de Putte and Senator
17 Fraser, if you could come up to the -- make sure we've
18 got everybody in the right order.

19 And while they're coming up, I want to
20 announce that it's my intention to -- we have about
21 17 -- last check, 17 registered witnesses for public
22 testimony, and I would like to accommodate those
23 witnesses, if we could. So remember that when you're
24 questioning and -- that we have some folks that would
25 like to testify here later on.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000625
JA_000624

TX_00000625

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 All right. Members, let's go ahead and
2 move into the invited testimony.

3 The first witness will be Jerry Bonnett,
4 general counsel, Indiana Secretary of State.
5 Mr. Bonnett? Mr. Bonnett, you'll have ten minutes the
6 timer is right before you. You'll get a yellow light at
7 30 seconds, I think. And then we'll strictly hold you
8 to the time, and then open it to questions at that time.
9 You'll not be interrupted during your testimony.

10 INVITED TESTIMONY

11 TESTIMONY BY JERRY BONNETT

12 MR. BONNETT: All right. Thank you,
13 Chairman Duncan. I want to thank Senator Fraser and
14 supporters of Senate Bill 14 for inviting me to be here
15 today.

16 CHAIRMAN DUNCAN: Would you state your
17 name and --

18 MR. BONNETT: Yes. My name is Jerry
19 Bonnett. I've served as general counsel for the Indiana
20 Secretary of State Todd Rokita from 2005 to the end of
21 2010 when he completed his second term in office. I am
22 currently serving as general counsel to Indiana's next
23 Secretary of State and chief election officer, the
24 Honorable Charles White.

25 Since 2005, my duties as general counsel

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000626
JA_000625

TX_00000626

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 have involved assisting with the implementation of
2 Indiana's photo ID law, including working with multiple
3 players in Indiana's election process, which is included
4 the Bureau of Motor Vehicles, county election boards,
5 poll workers, our Help America Vote Act, and support
6 agencies in coming up with the procedures and rules to
7 administer our photo ID law.

8 I've also been responsible for statewide
9 monitoring of election day activity in elections in our
10 statewide and primary -- primary general elections in
11 2006, 2007, 2008, and 2010. I've reviewed every
12 complaint from the -- regarding voting submitted to the
13 Secretary of State, the Indiana Election Division, the
14 Indiana Election Commission, the Department of Justice,
15 our Help America Vote Act, and other county election
16 boards.

17 I've also assisted the Indiana Attorney
18 General and the Indiana Solicitor General with the
19 discovery trials appeals and ultimately Supreme Court
20 review in the state courts and in the U.S. Supreme Court
21 of Indiana's photo ID law.

22 Prior to the first statewide election in
23 Indiana under the photo ID law, there was no shortage of
24 organizations claiming that we smell a rat of some sort
25 and that the law has some illegal discriminatory effect

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000627
JA_000626

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 or political subtext. My job has been to look for
2 exactly any application of the law that was illegal or
3 overburdensome.

4 Despite the intense scrutiny of the law
5 that has been locally -- local, state, national, and
6 even international, in my impression, Indiana has
7 been -- and our courts who have been very open to giving
8 a fair and complete hearing to anyone feeling agreed or
9 disenfranchised by our voter ID laws. In the five years
10 and eight statewide primary general elections I've been
11 involved with, there's been scant evidence of
12 disenfranchisement or discrimination in Indiana. If the
13 naysayers and conspiracy theorists and armchair social
14 scientists were correct in their prognostications,
15 Indiana would have experienced hundreds of thousands of
16 disenfranchised voters after the laws passed in 2005,
17 but hardly any group or individual or circumstance has
18 been found that has genuinely disenfranchised or
19 inconvenienced a voter beyond what the Supreme Court has
20 held to be the reasonable, orderly regulation of
21 elections.

22 Did Indiana fix something that wasn't
23 broke? Was it a law in search of a crime? Admittedly,
24 there's been little evidence of in-person voter fraud in
25 Indiana, but that's been of little consolation to

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000628
JA_000627

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 citizens who have come to Secretary of State's office
2 with concerns about the confidence in our elections.

3 What Indiana has experienced were
4 manipulation of voter registrations with thousands of
5 voter registrations submitted just prior to the closing
6 of registration which have confounded the orderly
7 registration of voters. Indiana has experienced issues
8 with voter list maintenance where -- where partisan
9 activists have refused to update voter registration
10 lists, insisting the U.S. Department of Justice to
11 intervene and require voter list maintenance in Indiana.
12 Indiana has seen inconsistent agency-to-agency
13 cooperation in the sharing of information. There have
14 been times when the Social Security office was unable to
15 provide verifications of voter registrations, times when
16 other state agencies were not able to exchange
17 information that would assist in verifying voter
18 registrations.

19 There have been reports of people in urban
20 areas being bussed around from poll location to poll
21 location. There is evidence, after the fact, of dead
22 voters having registered or of dead voters having voted.
23 There was also a report of a well-intentioned high
24 school civics teacher who was intent on having every 17
25 year old that came into her class register to vote and

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000629
JA_000628

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 every 18 year old vote even though there were some
2 students of hers who are not students -- who are not
3 U.S. citizens, but they were shamed into going through
4 the registration process and that resulted in illegal --
5 an illegal vote being cast and also confounded those
6 students eventual efforts to become naturalized U.S.
7 citizens.

8 In my position, I am in a position to say
9 that the law has not been applied -- has been applied in
10 the strict and unbending manner that the dissenters have
11 suggested.

12 After the 2005 photo ID law was enacted
13 but before the first election was held, the Secretary of
14 State and the election division and interested groups
15 developed procedures to deal with the issue of the
16 conformity of names on an ID to voter registration
17 lists. Rules were developed that would allow for a
18 voter named Mary Ellen Smith to -- who might appear on
19 the voter registration in as many as ten different ways
20 to -- to proceed to vote.

21 Also, Indiana -- rules were adopted by the
22 Election Division in Indiana so that if a voter had
23 married between the time of the voter registration, at
24 the polls on election day, they could update their voter
25 registration by signing the poll book and proceed to

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000630
JA_000629

TX_00000630

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 vote. In Indiana, voters can conform their voter
2 registration up through election day to the IDs that
3 they have.

4 Other state agencies have reached out to
5 anyone identified who has been experiencing problems of
6 obtaining photo IDs. In Indiana, it's not a money
7 issue. And an ID is reviewed by social service agencies
8 in Indiana as key to other social services and other
9 benefits of citizenship, and there's been an interest in
10 working with individuals who had difficulty obtaining
11 photo ID. Also, in the Indiana Election Day Handbook,
12 in bold print, it says, on -- in several locations, that
13 lack of ID or problems with an ID is not a cause for
14 someone -- for a voter to be turned away.

15 After five busy years of monitoring
16 primary general elections in Indiana, working with
17 deputies, reviewing complaints, I can say that Indiana's
18 photo ID law is not only constitutional as it is written
19 but as it has been applied in routine use -- is applied
20 and become routinely used in good faith and in -- and in
21 an accommodating matter in the state.

22 Now, keeping to its principal and intent,
23 Indiana's law, subject to all matter of partisan,
24 nonpartisan, state, national scrutiny, has not been
25 applied with the rigid inflexibility and consequences

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000631
JA_000630

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 predicted by detractors. After exhaustive review in the
2 state and federal courts involving the application of
3 the law as applied -- instance of the law and in -- and
4 in Indiana's informed public opinion, Indiana photo ID
5 has earned broad acceptance, even from skeptics, as
6 become -- as having become integral component of voter
7 confidence and law that honors the privilege and the
8 dignity of American's right to free and equal
9 participation in elections.

10 So I honor you for the difficult work
11 you're doing here today. I assure you that the work
12 won't be done if and when you pass Senate Bill 14. I
13 can certainly tell you that the sun came up in Indiana
14 after Indiana's photo ID was passed. It continued to
15 come up and continues to come up after each election
16 that we have. So I'm ready to address your questions,
17 please.

18 CHAIRMAN DUNCAN: Thank you, Mr. Bonnett.
19 So we'll have our first questions.
20 Senator Van de Putte, you're recognized.

21 QUESTIONS FROM SENATE FLOOR

22 SEN. VAN de PUTTE: Thank you very much,
23 Mr. Chairman.

24 And thank you very much, Mr. Bonnett, for
25 traveling from Indiana. I know on such short notice.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000632
JA_000631

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 We appreciate you being here to help us with your expert
2 testimony as we deliberate this very, very important
3 issue.

4 I had a few questions that -- that I
5 wanted to ask because here in Texas, we looked at the
6 Indiana law, and we're looking toward -- this is -- as
7 our bill author has said, it's kind of a Texas bill,
8 which we think is more restrictive than yours. And we
9 have heard from testimony that there is increased
10 turnout, and you haven't found any instances in where
11 the burden of the new Indiana law was placed upon
12 anybody. And -- and I think in your testimony and in --
13 said that it is working and even in your Supreme Court
14 case, no party or amicus cited -- well, of course, there
15 were no cases of impersonation at the polls in Indiana.

16 So I have some confusion because in the
17 bill that you passed, we had reports in Marion County in
18 2007 that 32 vote -- voters cast ballots that could not
19 be counted because of the voter ID law, and I want to
20 ask you about them because just a couple of them really
21 bring to mind some difficulties, and yet you cited that
22 there were no problems.

23 In South Bend, Indiana, ten retired nuns
24 were barred from voting in the 2008 Indiana democratic
25 primary. Some of them were in their 80s and 90s. They

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000633
JA_000632

TX_00000633

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 no longer had driver's license. They lived at the
2 convent, and the convent actually had the polling place
3 in their convent. The irony was that I believe in that
4 case, the election judges were actually other nuns who
5 lived with these nuns, but they were barred from casting
6 a ballot even though they had previously voted in at
7 least ten elections in Indiana but that these nuns were
8 not able to because they did not have an ID, even though
9 the election judges live with them. And so can you
10 comment? This was in the newspapers, but it was also in
11 Catholic Digest magazine and so wanted to know because
12 we heard --

13 MR. BONNETT: I can't --

14 SEN. VAN de PUTTE: -- that there were no
15 instances, yet we had these reports. And so could you
16 tell us? I mean, what happened to these nuns?

17 MR. BONNETT: I can't speak to the -- the
18 Marion County voters that you referenced to, although I
19 think that was covered in the Indiana League of Women
20 Voters v. Rokita case that was heard by the Indiana
21 Supreme Court.

22 In the case of the -- the -- the nuns, in
23 Northern Indiana, the -- it's my understanding and
24 that -- that situation was also discussed in -- in the
25 Crawford case -- the -- the nuns did have passports.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000634
JA_000633

TX_00000634

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 They did have a form of ID that was acceptable, but they
2 refused to present that. They were eligible for other
3 exceptions under the law, absentee voting exception, and
4 it was really a media event because the media had been
5 brought to the scene before. And they also refused to
6 go provisionally. I did not -- I believe they were
7 brought in a van to a polling location that was not --
8 not, I understand, any time that they were voting at the
9 place that they lived.

10 SEN. VAN de PUTTE: So --

11 MR. BONNETT: That incident was -- seemed
12 to be discredited as a -- as a legitimate case of
13 disenfranchisement.

14 SEN. VAN de PUTTE: So you're saying these
15 nuns organized in a -- in a fraudulent matter, that
16 these nuns all got together? But even though they're --
17 from the report what was reported, they lived at the
18 convent, and they were all in their 80s and 90s. So I
19 don't know. You know, maybe they had passports, maybe
20 they didn't. But you're saying that this was
21 orchestrated by these devious nuns to actually prove up
22 Indiana law, and really, they intended to mess you up
23 purposefully or --

24 MR. BONNETT: Yes, Your Honor.

25 SEN. VAN de PUTTE: Oh, thank you.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000635
JA_000634

TX_00000635

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 (Laughter)

2 SEN. VAN de PUTTE: Well, let me ask you
3 about another case. One of them was Lauren McCallick
4 who was an 18-year-old freshman at Saint Mary's College
5 in South Bend and who was not able to cast her ballot
6 that was due because of the law, and so that was one of
7 the cases that was there. And can you tell me about
8 her? Was she devious, as well, or was it orchestrated?

9 I mean, from the reports and from what was
10 happened, she was crying and she -- it was the first
11 time that she was going to be able to vote, and she
12 tried to -- she did do a provisional ballot. But since
13 she couldn't get the documentation that she needed
14 within the time requirement, she didn't have a chance to
15 vote because she was in class and she couldn't go back
16 to her -- so can you tell me what happened to Ms. Lauren
17 McCallick in this case?

18 MR. BONNETT: Unfortunately, I'm not
19 familiar with -- with that case.

20 SEN. VAN de PUTTE: Oh.

21 MR. BONNETT: So --

22 SEN. VAN de PUTTE: Well, then what
23 happened in -- again, in Marion County, when we had some
24 senior citizens that weren't able to? Now, they weren't
25 devious nuns. These were seniors who were living in

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000636
JA_000635

TX_00000636

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 a -- some sort of a -- it wasn't a senior assisted, but
2 it was some sort of a temporary, like rehab, where
3 people go after strokes or after a motor vehicle
4 accident, and that they weren't allowed. I mean, I can
5 understand your story about the nuns because, you know,
6 I'm a Catholic and sometimes they get really organized,
7 and they make their point. But what --

8 MR. BONNETT: I am too.

9 SEN. VAN de PUTTE: What -- what about the
10 people who were living in the -- again, in Marion
11 County, in a -- not their full residence --

12 MR. BONNETT: Uh-huh.

13 SEN. VAN de PUTTE: -- but for a certain
14 period of time because they had a disability, they had
15 had a stroke, and they were living in this. What
16 happened to those folks?

17 MR. BONNETT: Well, and I don't know the
18 specifics without more information, but every -- every
19 reported case has been investigated and reviewed. The
20 state election division, the state social service
21 agencies, and Bureau of Motor Vehicles Division have
22 been quite willing to assist voters who have -- have had
23 difficulties obtaining an ID.

24 The largest group of voters in Indiana had
25 some form of ID, a -- a -- of what was left over, the

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000637
JA_000636

TX_00000637

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 exceptions covered many of those voters, and the --
2 ultimately, you know, anyone registered to vote who
3 didn't have the ID, that group was small and has not
4 been identifiable in such a way that the state has been
5 able to even identify them, and certainly efforts have
6 been made in litigation to try and identify a group.
7 But I -- I believe the state would develop
8 administrative procedures to assist anyone having
9 trouble with an ID faster than the litigation would
10 proceed through the courts to try and validate the law.

11 SEN. VAN de PUTTE: Well, I appreciate
12 your answer, but you can understand my concern.
13 Particularly in the district that I represent, we have,
14 that I know of, six convents, the Sisters of Divine
15 Providence with their mother house with over 120 retired
16 nuns living there from orders all over; the Society of
17 Mary, which they're Marianist priests, and after they
18 finish at the University of Dayton and other Marianist
19 schools, they come to San Antonio and live right there
20 at Saint Mary's University. We have over 56 nuns from
21 Incarnate Word and that community, and they're, you
22 know, in their 80s, 90s. In fact, we even have a couple
23 that are over a hundred, and while on and on, you see my
24 problem.

25 And when I read things about Indiana and

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000638
JA_000637

TX_00000638

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 having the religious who don't live outside in homes but
2 who all have the same residences and who come back to
3 that convent or retirement home run by the nuns or run
4 by the priests, it's -- it's very difficult, and so I
5 have some concerns because I have so many voters that
6 are retired religious, and that's why I wanted to clear
7 that up.

8 But let me ask you about something else.

9 MR. BONNETT: If I may, before you change
10 the subject, I will note that Indiana, for example, has
11 a Mennonite population that objects to being
12 photographed, and our law provided an exception for
13 individuals for religious reasons who objected to being
14 photographed; and there is an exception for disabled
15 individuals who live within a state licensed
16 convalescent or care center. So Indiana has developed
17 exceptions for identifiable groups.

18 SEN. VAN de PUTTE: Oh, well, I think
19 that's wonderful that Indiana did that, but you may not
20 know that that's in our Texas bill.

21 MR. BONNETT: Uh-huh.

22 SEN. VAN de PUTTE: And so why this is
23 more restrictive than Indiana is we don't have the
24 protections that you do in Indiana under this bill, for
25 those who live in religious communities, for those who

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000639
JA_000638

TX_00000639

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 are disabled.

2 And that's the other thing I wanted to
3 talk to you about because I understand that, you know,
4 this is about the other thing that you said about
5 increased turnout. But I really wanted to talk to you
6 about -- because, I mean, let's face it, isn't the
7 turnout from 2008 November election because we had a
8 highly contested primary season, but it was because we
9 had this wonderful, wonderful, very, very active
10 electorate in electing between now President Obama and
11 John McCain. I mean, it was fabulous. I mean, so you
12 really can't compare turnouts to turnouts because the
13 turnout was wonderful in November, and we're all very
14 excited about that. So I wonder a little bit because, I
15 mean, everybody's turnout went up.

16 MR. BONNETT: May I respond to that?

17 SEN. VAN de PUTTE: Absolutely, please.

18 MR. BONNETT: If you compare the turnout
19 in the 2006 election, which was a nonpresidential
20 off-election year but -- for statewide primary and
21 general elections to the 2010 election last year, there
22 was also an increase between 2006 and 2010 in -- in
23 voter turnout in Indiana, which would be more comparing
24 the apples -- apples to oranges.

25 And you're right, in 2008, Indiana voted

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000640
JA_000639

TX_00000640

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 it's electoral votes for a Democratic presidential
2 candidate for the first time in over 30 years. Also, in
3 the 2006 state Congressional races after the photo ID
4 was enacted, three of Indiana's nine Congressional seats
5 switched from Democrat -- or from Republican to
6 Democrat, which tended to dispute the theory of the
7 political subtext of the law.

8 SEN. VAN de PUTTE: Thank you. There --
9 there are a couple of other questions that I wanted
10 to -- to --

11 MR. BONNETT: Uh-huh.

12 SEN. VAN de PUTTE: -- check on Indiana
13 law. Can you tell me -- your law has a free voter ID
14 card issued by the state or the county. Are there
15 restrictions or affidavits or a means test for access to
16 a free voter identification card from Indiana?

17 MR. BONNETT: I don't want to misstate --
18 misspeak that. It's on the Bureau of Motor Vehicle
19 Regulations. I -- I believe that the person applied for
20 that ID needs to sign an affidavit that they don't
21 have -- have another ID with the state. But beyond
22 that, I'm not -- I can't say about the issue of the
23 means --

24 SEN. VAN de PUTTE: Well --

25 MR. BONNETT: -- test.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000641
JA_000640

TX_00000641

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. VAN de PUTTE: Well, I looked at it,
2 and I didn't think so. It just says that they have to
3 state that they don't have a driver's license and they
4 don't have another.

5 MR. BONNETT: Uh-huh.

6 SEN. VAN de PUTTE: But there is no
7 affidavit of indigency or -- or anything required, at
8 least from what I looked at your law. But I'm not sure.
9 That's why I wanted to ask.

10 MR. BONNETT: That's my understanding.
11 Now, a related issue is when a provisional ballot is
12 verified, if a voter who has voted provisionally within
13 the ten days after the election signs an affidavit that
14 they don't have an ID and cannot get one without expense
15 and possibly can't afford one -- I'm not sure of the
16 exact language on the affidavit -- then they're entitled
17 to have their vote counted.

18 SEN. VAN de PUTTE: Well, one of the
19 things that I wanted to look at, and I have the Indiana
20 law and I -- because ours is a little bit more
21 restrictive. But under your section of the -- of the
22 Indiana bill, it has something in here because -- that
23 has me a little troubled because we don't, and I'm going
24 to read it.

25 But the voter prescribed by -- and it has

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000642
JA_000641

TX_00000642

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Indiana code that has not complied with -- and I think
2 that Indiana code 3-7-33-4.5 -- on election day must
3 present one of the following documents to the -- and it
4 says, "A current and valid photo ID," or it says,
5 "current utility bill, bank statement, government check,
6 paycheck, government document that shows the name and
7 address of the voter." And yet we've been told that
8 Indiana only has a photo.

9 So what -- what is this section referring
10 to? Is it a provisional ballot or is it a first-time
11 voter or -- or does Indiana allow for the photo ID, but
12 if they don't have the photo ID, can they use other
13 forms?

14 MR. BONNETT: I'm not aware that Indiana
15 accepts any alternative than a photo ID. That might --
16 I'd have to look at the law carefully on that. Might
17 refer to the verification of address or the residency
18 with respect to voters who have moved, but I do not
19 believe that Indiana has any requirement other than --
20 than that of a -- of a government-issued photo ID with
21 an expiration date for in-person voting.

22 SEN. VAN de PUTTE: Well, I think that
23 is -- it was very hard to follow, but I think it's under
24 a provisional ballot that has a state's licensed care
25 facility or something. But there is at least that

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 protection for those who are at a temporary facility;
2 that even if they don't have a photo ID, the exception
3 is not that they're just exempted but I think that they
4 can utilize other forms of ID, which our Texas bill
5 doesn't have.

6 To your knowledge, was -- since this was
7 from the Indiana Legislature, do you remember any
8 discussions on why they -- they put that in? Was this
9 put in at the same time as the original voter ID
10 legislation, or was this only done after the mess up
11 with, you know, the nuns and the -- the other folks who
12 were at this temporary facility?

13 MR. BONNETT: I didn't live in Indiana
14 during the time that this legislation was -- was
15 discussed and deliberated, but it's my understanding
16 that the -- the exceptions to the provisions for
17 individuals who live in state-licensed assisted living
18 facilities has always been part of the -- of the
19 scheme -- or the bill, and I think the -- the utility
20 bills and the other documents you refer to might go to
21 the issue of establishing their residency in the
22 state-licensed facility, which is then an exception if
23 the polling place is located in that facility.

24 SEN. VAN de PUTTE: Thank you. I really
25 appreciate your candid answer; and, again, we thank you

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000644
JA_000643

TX_00000644

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 very much for your travel here to help us on this
2 important deliberation. Thank you.

3 MR. BONNETT: Thank you.

4 SEN. VAN de PUTTE: I don't have any other
5 questions, Mr. Chairman.

6 CHAIRMAN DUNCAN: Chair recognizes Senator
7 Davis.

8 SEN. DAVIS: Thank you, Mr. Chair.

9 Mr. Secretary, thank you so much for
10 traveling to be with us today and to help inform us
11 about the work that you've done in Indiana on this
12 issue. I just want to make sure that I clearly
13 understand because today there's been a great deal of
14 discussion about your bill, as you can imagine, as the
15 reason why the bill that's being proposed in the Texas
16 Senate today would be able to withstand constitutional
17 scrutiny. So I want to make sure that we have a clear
18 record in terms of how the bill that Indiana has
19 introduced, or the law that you've introduced, mirrors
20 or does not mirror what we are -- are discussing on the
21 Senate floor today.

22 So I think I heard you say that you do
23 allow women who have been married or divorced to come in
24 to vote and to provide some affidavit that they -- their
25 name has changed and is different than is on the ID that

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000645
JA_000644

TX_00000645

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 they have because of marriage or divorce. Is that
2 correct?

3 MR. BONNETT: That's correct. That's by
4 administrative directive. It's not part of the statute.
5 And I'll say that when the -- when the Indiana courts
6 and the -- the federal courts reviewed the law, it was
7 reviewed in the context not just of the statutory
8 language but other administrative procedures that were
9 developed after the law was passed, after the framework
10 of the law was passed, for the -- the view of -- as
11 applied, how the law was applied.

12 SEN. DAVIS: Absolutely. And I think
13 that's terribly important, and I'd like to invite you
14 to -- to please inform us as much as possible both
15 statutorily what was reviewed in terms of what you've
16 done to try to preserve the integrity of someone's right
17 to vote and administratively what's been done.

18 So you said on that particular one, that
19 was a rule that was instituted administratively, but it
20 was part of what was reviewed by the court system in
21 terms of the implementation of that law?

22 MR. BONNETT: Yes. That -- that directive
23 clarified procedures for poll workers in -- in viewing
24 IDs for conforming names.

25 SEN. DAVIS: And then I believe you said

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 that in the -- the language that's presented to a voter
2 in terms of their right to vote in Indiana, in bold
3 language, you have clarified for voters there that not
4 having a photo ID will not in and of itself be
5 sufficient cause for them not to be able to vote. Is
6 that correct?

7 MR. BONNETT: Yes. I'll -- I'll just look
8 up the exact -- the exact bold language, one example's
9 are referred to on Page 10 of the Indiana Election Day
10 Handbook. This is the 2008 copy. In bold, "No voter
11 should be turned away from the polls for failing to
12 provide photo ID." That's -- that's instruction to all
13 poll workers.

14 SEN. DAVIS: And does that wording go to
15 instances where, for example, as you -- as you talked
16 about earlier, if a person comes to the poll and they do
17 not have a photo ID, they can vote a provisional
18 balance -- or ballot -- excuse me -- on the condition
19 that they attest that they do not have a photo ID
20 because there would be a cost to receiving that ID
21 either through having to get the underlying
22 documentation that would qualify them to receive the ID
23 or some other cost that would be associated with
24 receiving the ID?

25 MR. BONNETT: Yes, there are several

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 alternatives to means to -- to verifying a provisional
2 ID to allow --

3 SEN. DAVIS: And can you discuss what
4 those several alternatives are, please?

5 MR. BONNETT: Well, generally, providing
6 the -- the ID or providing the -- the -- the voter
7 registration correction or an affidavit that there is a
8 religious exception to being photographed, that an ID
9 cannot be obtained without -- without cost. There may
10 be another. That's provided for in the Voter Bill of
11 Rights which is posted at each poll site, and then
12 voters who vote provisionally are given a paper receipt,
13 so to speak, with the instructions on how to verify
14 their provisional ballot and have it cast, how and
15 where.

16 SEN. DAVIS: Thank you. That's very
17 helpful.

18 And I believe you also have a provision in
19 Indiana, do you not, that allows for the use of an
20 expired driver's license for a certain period of time.
21 Is that correct?

22 MR. BONNETT: Yes. And I believe if it --
23 if it goes back to the beginning of the -- the opening
24 of registration for the election which is generally 30
25 days from the prior election. So it's generally about a

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000648
JA_000647

TX_00000648

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 year, year past.

2 SEN. DAVIS: Okay. Have you done any work
3 in Indiana to track or to attempt to track the
4 percentage of persons based on categories, whether it be
5 senior status, whether it be minority status, whether it
6 be indigent status, where people have claimed that
7 somehow their right to vote has been interfered with as
8 a result of this particular law?

9 MR. BONNETT: I'm not familiar with the
10 state doing that research. Certainly the -- there are
11 interest groups that have -- have made a concerted
12 effort to identify individuals, groups, or
13 characteristics, identify them and locate beyond the
14 theoretical basis; and generally, it's not been
15 something that's been accomplished. There's been a
16 tremendous separation between the theoretical concerns
17 and what's actually been experienced in our elections
18 over the last five years.

19 SEN. DAVIS: When you started your
20 comments this afternoon, you began by saying that there
21 had been scant evidence of disenfranchisement, and scant
22 to me means that there must have been some. So can you
23 talk a little bit with us about what that's looked like
24 for Indiana?

25 MR. BONNETT: There -- there was a single

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000649
JA_000648

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 media report prior to the 2010 election, a few days
2 prior to the election. It was not officially reported
3 to the state, but the media account was a gentleman
4 of -- in a particular county of 40-something years, due
5 to some unusual circumstances did not have a birth
6 certificate. I think it involved him having been
7 discharged to foster care through state programs,
8 et cetera. But it also was evident that the Bureau of
9 Motor Vehicles Division has a special group -- team that
10 works with individuals who have particular problems to
11 address those needs. And the -- the report did not
12 result in -- in a complaint, and there was no indication
13 the state got that the person wasn't able to vote
14 under -- under one of the exceptions.

15 There have been some reports, also, that
16 generally upon investigation, the individuals were able
17 to vote under -- under some provision.

18 SEN. DAVIS: And you mentioned that -- a
19 moment ago, that through both administrative rule and
20 through the statute itself, in the state of Indiana,
21 you've tried to be cognizant of this disenfranchisement
22 issue through some of the -- the rules that you've
23 enacted along with it. We talked about the fact that
24 you have a religious exception for -- for people who
25 cannot be photographed or refused to be photographed for

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000650
JA_000649

TX_00000650

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 religious purposes. We talked about the fact that if a
2 person comes to the polling location without an ID, they
3 can vote a provisional ballot so long as they attest as
4 one of the -- the reasons for voting that provisional
5 ballot, that they had to pay a fee in order to -- to get
6 a photo ID and they were unable to pay that fee. You
7 talked about the special rule that's been created to
8 handle the situation where women have been married or
9 divorced and their -- their name would be different than
10 what is on their ID.

11 Are there other -- and excuse me -- you
12 also talked about the expiration of a driver's license
13 not being a reason to immediately turn that -- that
14 voter away so long as it's within that --

15 MR. BONNETT: Uh-huh.

16 SEN. DAVIS: -- period of time that you
17 described earlier.

18 Are there any other conditions that were
19 implemented, either through the statute or through
20 administrative rule, that you feel we should know about
21 in terms of reflecting a sensitivity to trying to
22 preserve the enfranchisement of your voters as much as
23 possible?

24 MR. BONNETT: Yes. College -- college
25 students at some state universities have -- it came

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 about, they have IDs that don't have an expiration date,
2 and through arrangements with -- with state colleges,
3 the universities provided through some type -- I believe
4 it was a secure online facility -- a way for the polling
5 locations to -- to verify the expiration date
6 independent of the actual ID. And so arrangements were
7 made, then, for students with -- with a university ID
8 that did not have the expiration date but where the
9 college was able to provide that information
10 independently to go ahead and vote on election day.

11 SEN. DAVIS: Very good. Are there any
12 other?

13 MR. BONNETT: Not that come to mind.

14 SEN. DAVIS: Okay. Thank you,
15 Mr. Secretary. I appreciate it.

16 MR. BONNETT: Uh-huh.

17 CHAIRMAN DUNCAN: There being no further
18 questions, Mr. Bonnett. Thank you for your testimony
19 today and for traveling here.

20 SEN. WEST: Mr. Chairman?

21 CHAIRMAN DUNCAN: Senator West, you're a
22 little late on the light there.

23 SEN. WEST: I thought it was on. I
24 apologize. And I just have a couple of questions,
25 anyway.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000652
JA_000651

TX_00000652

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 And it may have already -- you may have
2 already addressed this, and I just may not have heard
3 it. As it relates to the provisional ballots in your
4 state --

5 MR. BONNETT: Uh-huh.

6 SEN. WEST: -- an individual can, in fact,
7 cast a provisional ballot. Is that correct?

8 MR. BONNETT: Yes.

9 SEN. WEST: Okay. And they have to --
10 what's the process? Once they cast the ballot, in order
11 for the ballot to count, they have to come back within a
12 certain number of days?

13 MR. BONNETT: Within ten days.

14 SEN. WEST: And what do they have to do?

15 MR. BONNETT: They can correct any -- any
16 issue with -- with voter registration. For example, if
17 a person appears at a poll and they're simply not
18 registered at all, they can still cast a provisional
19 ballot. You know, there may be some administrative
20 issue in the -- with kind of registration board about
21 why they didn't show up in the precinct where they
22 believe they needed to vote. That -- that can be
23 corrected, and the Election Board is free to correct
24 that through and beyond the election. They can bring in
25 the identification, and they can certainly seek

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000653
JA_000652

TX_00000653

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 assistance with obtaining the identification that's
2 required. They can also come and execute an affidavit
3 that -- obviously, we talked about the exception to
4 being photographed for religious reasons. They can
5 execute an affidavit that says they -- they don't have
6 the ID. They cannot get one without cost, and then
7 they're eligible to have that vote counted.

8 SEN. WEST: Okay. So there's a process in
9 place.

10 Does the state keep any tally or report on
11 the number of provisional ballots that are cast in the
12 state of Indiana?

13 MR. BONNETT: Yes. The county election
14 boards submit that information with their -- with their
15 poll results data to the Election Division, and it's --
16 it's published online for every election. The -- the
17 number of provisional ballots and the disposition and
18 the counties actually are also required to send copies
19 of the affidavits to the Secretary of State's office,
20 which then can be examined for the reason. For example,
21 how many didn't show up on a poll book or there was a
22 challenge raised of some sort so that we can -- we've
23 been able to investigate the status and disposition of
24 provisional ballots.

25 SEN. WEST: Is that information

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 disaggregated by ethnicity?

2 MR. BONNETT: No. I'm not -- I do not
3 believe that there's an indication on the provisional
4 ballot affidavit.

5 SEN. WEST: So you really don't -- I mean,
6 in terms of the provisional ballots, the tallies, in
7 terms of provisional ballots, is it disaggregated by
8 ethnicity; that is, the number of Hispanics, African
9 Americans that are voting?

10 MR. BONNETT: It's not, although the
11 copies of the affidavits are -- are -- are public
12 information, and there have been some social scientists
13 who have been studying and attempting to write about
14 provisional ballots and determine if there's any -- any
15 meeting or conclusions that can be gathered --

16 SEN. WEST: Has there been any -- any such
17 studies done in Indiana?

18 MR. BONNETT: I have looked at one study
19 from a adjunct law professor. It did not appear to
20 provide any -- any academic or statistically sound
21 conclusions. It was more a discourse on the issue of
22 photo ID, in general, but it made some reference to some
23 statistics that were, you know, tallies of the number of
24 provisional ballots.

25 The provisional balloting started at the

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 same time as the photo ID, so we don't have a calculus
2 of the provisional balloting before Indiana's photo ID.

3 SEN. WEST: Do you happen to have the cite
4 for that particular professor's study or article?

5 MR. BONNETT: I'll be most happy to --

6 SEN. WEST: Okay.

7 MR. BONNETT: -- to get it to you or get
8 it to the committee.

9 SEN. WEST: To the chairman and the staff?
10 I'd appreciate that.

11 As it relates to provisional ballots, is
12 there any type of report on the number of individuals or
13 the percentage of individuals that come back and go
14 through the process to make certain their vote count?
15 Is it less than 10 percent of those individuals that
16 cast?

17 MR. BONNETT: I'm not aware of an
18 aggregated report. The data exists, and it's -- it's
19 online. I'm not aware of an aggregated analysis of how
20 many.

21 Some provisional ballots, you know, there
22 are some instances where a person would go to a precinct
23 and not be registered to vote a provisional ballot and
24 then be directed to, and the poll workers are advised to
25 have someone go ahead and vote that provisional ballot.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000656
JA_000655

TX_00000656

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 But then they may later in the day be directed to the
2 right precinct, and then the -- you know, so there can
3 be more than one provisional ballot.

4 There's also some of the scholarship
5 related to the issue that if the outcomes of elections
6 have been determined by substantial margins, then
7 individuals may not feel a need to go back and verify
8 the provisional ballots if the election were not so
9 close that --

10 SEN. WEST: Right.

11 MR. BONNETT: -- that the votes were
12 meaningful. So it's not really what -- what -- clear
13 what the meaning of the numbers of provisional ballots
14 and the ones that are verified means, as far as I'm
15 aware.

16 SEN. WEST: But there's no statewide study
17 or report that's done on an annual basis that looks at
18 the percentage of individuals that cast provisional
19 ballots that actually go back and verify their ability
20 to --

21 MR. BONNETT: That data is reported in --
22 but I'm not aware of analysis of it. The number by
23 county of provisional ballots, probably by precinct,
24 that were cast and their ultimate disposition is -- is
25 reported in -- in election return statistics. Analysis

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 of it is not something that I'm aware of, though.

2 SEN. WEST: Okay. You indicated that the
3 affidavit was -- is public. Is it a --

4 MR. BONNETT: Yes.

5 SEN. WEST: -- public record?

6 And that's the -- when you say "the
7 affidavit," what do you mean by that?

8 MR. BONNETT: That's a document that is
9 initially executed by the voter at the time of casting
10 the provisional ballot --

11 SEN. WEST: Okay.

12 MR. BONNETT: -- and then later, handled
13 by the Election Board within that ten days to determine
14 whether or not that vote -- the vote is sealed. The
15 vote is sealed in an envelope.

16 SEN. WEST: All right. I just wanted to
17 make certain we were on the same page.

18 Okay. Thank you very much, Mr. Chairman.

19 MR. BONNETT: You're welcome.

20 SEN. WEST: I would like to get that cite
21 for the study, though.

22 CHAIRMAN DUNCAN: Senator Gallegos?

23 SEN. GALLEGOS: Mr. Secretary, let me ask
24 you one question. Is your Indiana driver's license, is
25 it a valid form of ID under Indiana law?

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000658
JA_000657

TX_00000658

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 MR. BONNETT: Yes, it is a state-issue ID.

2 SEN. GALLEGOS: It is valid?

3 MR. BONNETT: Uh-huh.

4 SEN. GALLEGOS: And any supplements of
5 that Indiana license, is that also a form of ID? What I
6 mean supplements is, if it -- if a driver's license is
7 confiscated and you get a temporary, is that also a
8 valid -- a valid form of ID?

9 MR. BONNETT: If the -- I don't believe
10 that the state driver's license is specified in the
11 legislation. It's specified more generically, a
12 state-issued ID with photograph with an expiration date
13 or government-issued ID.

14 It's my understanding when a driver's
15 license is confiscated that the Bureau of Motor Vehicles
16 will immediately issue another form of ID that is a --
17 for example, driving is restricted.

18 SEN. GALLEGOS: And that is a valid form
19 of ID?

20 MR. BONNETT: Yeah.

21 SEN. GALLEGOS: Okay.

22 MR. BONNETT: I don't believe the -- I
23 remember when I lived in Texas and in Louisiana
24 sometimes the police would take away your ID and give
25 you a piece of paper that was sort of -- to cover for

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000659
JA_000658

TX_00000659

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 you, and that type of document would not be.

2 SEN. GALLEGOS: Yeah. But that is a valid
3 form of ID in Indiana?

4 MR. BONNETT: It would be required to
5 have -- the ID would be required to have a picture and
6 have the expiration date. And so something other than
7 that would not be allowed for voting. It would still be
8 required to have a picture.

9 SEN. GALLEGOS: Thank you.

10 MR. BONNETT: Does that answer your
11 question?

12 SEN. GALLEGOS: Yeah.

13 CHAIRMAN DUNCAN: Thank you, Mr. Bonnett.
14 We appreciate your appearance here today.

15 TESTIMONY BY LUIS FIGUEROA

16 CHAIRMAN DUNCAN: The Chair calls Luis
17 Figueroa -- Figueroa, Mexican American Legal Defense
18 Education Fund, or MALDEF. Would you state your name,
19 please, and who you represent?

20 MR. FIGUEROA: Absolutely. My name is
21 Luis Figueroa. I'm the legislative staff attorney with
22 the Mexican American Legal Defense and Educational Fund,
23 MALDEF. Thank you very much for this opportunity to
24 testify before the Senate on this important legislation.

25 MALDEF works to promote and protect the

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000660
JA_000659

TX_00000660

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 rights of Latinos, including voting rights and in the
2 state of Texas and across the nation. We have an
3 extensive history in the Voting Rights Act and in
4 protecting voting rights across the nation and, of
5 course, here in Texas, going back to the case of White
6 v. Register and most recently in LULAC v. Perry
7 challenging the redistricting implementation from the
8 last decade for last -- from the last session.

9 We stand here opposed to SB 14 because it
10 lacks the safeguards to ensure that eligible voters will
11 not be disenfranchised at the polls. If SB 14 was
12 enacted, it would be the most restrictive photo ID
13 requirement in the nation, more restrictive than
14 Indiana, more restrictive than Georgia, more restrictive
15 than Arizona. They would allow for voter identity
16 documents, less time to cure for provisional ballots,
17 and it would be even more difficult to cure than any of
18 the other states.

19 Studies after studies have shown that
20 voter ID and additional identification requirements at
21 the polls do have an impact on minority voters and on
22 other protected classes. The study from voter ID
23 requirements and disenfranchisement of Latino, black and
24 Asian voters by Barreto, Nino & Sanchez states
25 "Controlling for age, income and education, we find the

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000661
JA_000660

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 naturalized citizens and minority voters are
2 significantly less likely to be able to provide multiple
3 forms of identification such as a copy of their original
4 birth certificate or recent bank statements.
5 Respondents were asked about their ability to provide
6 approximately six unique forms of identification, and
7 naturalized citizens and minority voters were
8 consistently less likely to have each form of
9 identification. Data reflects identification trends of
10 actual voters, not just adult citizens, the findings go
11 far to suggest that photo -- that voter identification
12 laws could immediately disenfranchise many Latino,
13 Asian, African-American citizens."

14 From the Rutgers study, protecting the
15 enfranchised or restricting it, the effects of voter
16 identification requirements and turnout, by Vercellotti
17 and Anderson, states that "The predicted probability
18 that Hispanics would vote in states that required
19 nonphoto identification was about 10 percent points
20 lower than in states where Hispanic voters gave their
21 names."

22 In the Wisconsin study, the driver's
23 license status of the voting age population was counted
24 by John Pawasarat. It stated that "Minorities in poor
25 populations are the most likely -- are the most likely

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000662
JA_000661

TX_00000662

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 to have driver's license problems. Less than half,
2 40 percent, of Milwaukee County African-American adults
3 and 43 percent of Hispanic adults have a valid driver's
4 license compared to 85 percent of white adults in the
5 balance of the state."

6 The Brennan Center, in their report
7 Citizens Without Proof, A Survey of Americans'
8 Possession of Documentary Proof of Citizenship and Photo
9 Identification, stated, "Citizens with comparatively low
10 incomes are less likely to possess documentation proving
11 they are citizens. As many as 11 percent of United
12 States Citizens, more than 21 individuals, do not have
13 government-issued photo identification." It goes on to
14 state that "25 percent of African-American voting-aged
15 citizens have no current government-issued photo ID
16 compared to 8 percent of white voting-aged citizens."

17 Study after study has shown that Latinos,
18 African-Americans, elderly, the poor, students are less
19 likely -- the disabled community are less likely to have
20 the photo identification requirements required under
21 SB 14.

22 It's important to note that Texas under
23 current law has a voter ID requirements. It has an ID
24 requirement that -- it requires that you bring a voter
25 registration certificate or additional forms of

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 identification. The question is, how much stricter can
2 we make the voter identification requirement? The
3 question is not whether to have a voter identification
4 or not have it. The question is, how restrictive do we
5 want to make it?

6 The current legislation presented before
7 us does not provide for any alternative photo
8 identification. It does not allow for student ID cards,
9 for Medicaid, Medicaid cards, for expired driver's
10 license, for expired military cards or for state-issued
11 employer identifications.

12 We know that in our other states that have
13 implemented strict voter identification laws that the
14 ability to cure and to come back day to day and fix
15 their provisional ballot, it does not happen with much
16 frequency. Voters do not return within the allotted
17 time period to fix their voter identification.

18 It's also worth noting that in SB 14 it
19 actually lowers the amount of time from what Indiana
20 requires, from ten days to six days -- six days to
21 return and fix their voter identification. In Arizona,
22 739 ballots were not counted where -- conditional
23 provisional ballots were not counted, and only 158 were
24 counted after voters cured their identification
25 requirements.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000664
JA_000663

TX_00000664

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 What we found in Arizona when we litigated
2 was that the most common problem was a driver's license
3 that did not match an address, that did not match a
4 voter registration certificate. We know that Latinos,
5 African-Americans and low income are the most mobile
6 populations often moving from a rental apartment, moving
7 from home to home, and as a result are most likely to
8 have matching -- most likely have identification that
9 doesn't match their voter registration certificate.

10 We know that providing a free personal
11 identification certificate does not solve the problem if
12 the documents needed to get a personal identification
13 certificate are the same ones that the study show the
14 minorities don't have. And we know that if people are
15 required to bring birth certificates and other
16 documentation that they are unable to get a current
17 driver's license, that they are not likely to get the
18 free personal identification if they lack those same
19 documents.

20 We believe that there are ways to
21 create -- there are ways to ensure that people who are
22 voting are who they say they are. There are ways to do
23 it without disenfranchising voters. What we need are
24 appropriate safeguards in a photo identification law.
25 We need to expand the current list of documents that are

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000665
JA_000664

TX_00000665

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 provided in SB 14, and most importantly we should
2 incorporate a signature affidavit similar to Michigan
3 and Florida to ensure that people who lack the
4 identification requirements are still able to cast a
5 ballot and have their vote count. It's about finding
6 the right balance between security and access.

7 SB 14 only focuses on voter impersonation
8 fraud while ignoring voter intimidation, deceptive
9 practices and poll worker error. There are ways to
10 ensure that voters who say they are -- are who they say
11 without disenfranchising voters. Finding that right
12 balance includes including two forms of nonphoto
13 identification, requiring signature affidavit attesting
14 to name, address and eligibility, including voter
15 integrity task force, allowing for same-day election
16 voter registration with an ID requirement, free ID that
17 is not limited to the current requirements that require
18 the same documents that are required to get a driver's
19 license right now, training for poll workers and voter
20 education.

21 When we find the right balance between
22 access and security, we will ensure that we have the
23 voter confidence in our system, a system that is not
24 predicated on trying to disenfranchise voters, a system
25 that is not so unsecure that we don't have faith in our

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000666
JA_000665

TX_00000666

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 electoral system, but a system that provides for access
2 and security to ensure that all votes are counted, and
3 that is what we are aiming for.

4 With that, I'm open for questions, and I
5 thank you again for this opportunity.

6 SEN. ELTIFE: Members any questions?

7 (No response)

8 SEN. ELTIFE: Thank you, sir, for being
9 here today. Hold on one second.

10 QUESTIONS FROM SENATE FLOOR

11 SEN. ELTIFE: Senator Rodriguez?

12 SEN. RODRIGUEZ: Thank you, Mr. Chairman.
13 Mr. Figueroa, first of all, thank you for coming here to
14 testify this afternoon, particularly on such short
15 notice. I am familiar with MALDEF's work. In fact, I
16 serve on its board. So I know the great work that the
17 organization does to protect the rights of citizens,
18 particularly in the area of voting rights.

19 I want to ask you just a few questions and
20 mainly for clarification. I believe you started out by
21 comparing the legislation in Senate Bill 14 with the
22 Arizona -- the Indiana law, and I believe you even
23 mentioned the Arizona law. Could you give us
24 specifically in which ways SB 14 is more restrictive
25 than these other laws?

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000667
JA_000666

TX_00000667

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 MR. FIGUEROA: Absolutely. Senate Bill 14
2 has a very limited scope of identification requirements.
3 It only allows for a driver's license, a passport,
4 citizen certification and a military identification.
5 Arizona, which at the time was considered a pretty
6 restrictive identification requirement, allows for photo
7 ID, but also allows for two alternative nonphoto
8 identification. It was most similar to the proposal
9 that was introduced last session.

10 In Indiana where they do have a photo ID
11 requirement, they do allow for -- when you cast a
12 provisional ballot, you can come back within ten days
13 and you can attest to being indigent or you can attest
14 that you were unable to get the identification, and
15 they'll allow you an opportunity to have your vote
16 counted.

17 This law in SB 14 does not have any such
18 assertion to ensure the voters are counted. In fact, it
19 lowers the amount of time for you to cure that
20 provisional ballot. We're going from ten days to six
21 days -- to six days.

22 And in Georgia, again, there are also
23 other forms of identification that were allowed that are
24 not allowed under Texas. Even in Indiana, the
25 expiration date, you are allowed to have an expiration

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000668
JA_000667

TX_00000668

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 date if you're within the last -- within the last
2 election. If your driver's license was expired within
3 the last election, they'd still allow you to vote. This
4 would be by far the most restrictive ID requirements in
5 the nation.

6 SEN. RODRIGUEZ: So given that, is it your
7 opinion that this law, this bill that we're considering,
8 would be much more likely to disenfranchise voters than
9 these other states' laws?

10 MR. FIGUEROA: I do think the more -- the
11 more requirements you put, the more limits on
12 identification, the more likely you are to have an
13 impact on the working poor and Latinos and
14 African-Americans and other -- and other voters.

15 SEN. RODRIGUEZ: Could you go over some of
16 the implementation challenges or issues that were
17 confronted when the Arizona law was being implemented to
18 give us a sense of what we might expect? And
19 particularly you might -- if you could focus on how it
20 may have impacted the Latino voters in Arizona.

21 MR. FIGUEROA: Absolutely. Our studies
22 did find -- our expert did find a disparate impact in
23 Arizona on Latino voters, and I grant you this was even
24 with more broader identification requirements than this
25 bill. So this bill would even have a stronger impact

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000669
JA_000668

TX_00000669

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 than Arizona. What we found in Arizona was -- the most
2 significant impact were poll workers who tried -- who
3 claimed that the address had to match the voter
4 registration certificate to the driver's license.

5 Poll worker training has got to be a key
6 component of this. It's not clear from SB 14 about what
7 to do if a driver's license doesn't match the voter --
8 the voter registration certificate, whether that's
9 because a recently married woman has a different last
10 name, because there's a misspelling on the voter
11 registration certificate, because the address doesn't
12 match or the date of birth doesn't match. There's any
13 numerous possibilities of a mismatch between the voter
14 registration and the licenses that are going to be
15 required. Are poll workers going to use that to
16 disenfranchise voters? Well, we would hope not, but
17 we -- in our experience, it has had that impact.

18 SEN. RODRIGUEZ: All right. Thank you.
19 You stated the Latino voters are less likely to have the
20 identification required by the bill. Can you tell us
21 why?

22 MR. FIGUEROA: Yeah. I mean, a lot of
23 this has to do with the difficulty in obtaining a
24 driver's license right now. So we know that getting a
25 driver's license has become increasingly more difficult

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000670
JA_000669

TX_00000670

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 by DPS under the current rules. Obtaining the -- having
2 the birth certificate, the documentation that you need
3 to get a driver's license is sometimes difficult to get.
4 The cost involved is also somewhat of a problem.

5 It's also a lot of people live in these
6 rural counties or don't live near a DPS station and
7 don't have a driver's license. Also, students who live
8 with their -- with their parents and don't have a
9 driver's license or they only have a student ID card may
10 not have a driver's license or the funds or the time
11 necessary to go get a driver's license.

12 SEN. RODRIGUEZ: I see. Finally, let me
13 ask you just for the record here -- I think we know the
14 answer -- but have Latino voters generally experienced,
15 in the history of this state, disenfranchisement when it
16 comes to exercising their right to vote?

17 MR. FIGUEROA: Yes. Texas has a long
18 history of voter discrimination in Texas, which is why
19 we're a Section 5 state under the Voting Rights Act. It
20 is precisely because of our history and the all-white
21 primaries, poll tax, disenfranchising voters through
22 cracking and splitting and redistricting that we are a
23 Section 5 state. And I believe that there's going to be
24 a witness here today that's going to talk about that.

25 SEN. RODRIGUEZ: Do you feel that this

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 long-standing history has engendered mistrust on the
2 part of the Latino voters as far as coming out and
3 voting?

4 MR. FIGUEROA: Yes. And ironically the
5 voter ID or the photo ID legislation has been touted as
6 a way to install voter confidence in our electoral
7 system, but it's only confidence on the security side.
8 It's not confidence on the access side. And from the
9 Latino community, there needs to be stronger confidence
10 on the access side. There's a long history of
11 discrimination on the voting side of Latinos, and there
12 is this feeling among many Latinos that there is a
13 continual effort to prevent our ability to elect our
14 candidates of choice and our ability to vote. So we
15 need to work on our confidence on the access side,
16 particularly with the Latino community.

17 SEN. RODRIGUEZ: Could you tell us whether
18 on this last point even those Latinos with the required
19 ID feel a distrust in participating?

20 MR. FIGUEROA: Yes. I mean --

21 SEN. RODRIGUEZ: And if so why?

22 MR. FIGUEROA: Texas has one of the lowest
23 voter turnouts in the nation. I believe it may actually
24 be the lowest in the nation. Latino voter turnout is
25 dismal in comparison to other states. And those are

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000672
JA_000671

TX_00000672

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 people who are eligible -- who are eligible to vote,
2 have registered to vote and in many cases may have the
3 identification. But there is this feeling that there's
4 going to be a systematic way for their vote not to
5 count, that their vote won't make a difference. And so
6 we need to make efforts in this state to encourage
7 voting, not discourage it.

8 SEN. RODRIGUEZ: Thank you.

9 Thank you, Mr. Chairman.

10 CHAIRMAN DUNCAN: I think there's
11 another -- Senator Huffman was wishing to ask questions,
12 and I don't know that she's on the floor. Can you hold
13 on just a minute?

14 (Brief pause)

15 SEN. ELLIS: Mr. President?

16 Mr. President, parliamentary inquiry.

17 CHAIRMAN DUNCAN: State your inquiry.

18 SEN. ELLIS: You know the time of the
19 State of the Union Address tonight?

20 CHAIRMAN DUNCAN: It's this evening.

21 SEN. ELLIS: This evening? I was hoping I
22 could hold hands with some of my Republican colleagues
23 and watch it. So I'm wondering how long are we going to
24 be here tonight?

25 CHAIRMAN DUNCAN: We have two televisions

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000673
JA_000672

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 in the lounge, Senator.

2 SEN. ELLIS: Well, if I really want to
3 feel the love, I'd like to be -- I'd like to be at home.

4 (Laughter)

5 CHAIRMAN DUNCAN: Senator Huffman -- have
6 you finished your inquiry, Senator Ellis?

7 SEN. ELLIS: (No audible response)

8 CHAIRMAN DUNCAN: Senator Huffman, you are
9 recognized.

10 SEN. HUFFMAN: Yes, sir. Thank you. Just
11 a couple of questions.

12 Sir, you said that this legislation
13 conveniently disenfranchises minority voters. Is that
14 correct?

15 MR. FIGUEROA: I don't think I used the
16 word "conveniently," but disenfranchises voter -- could
17 potentially disenfranchise voters.

18 SEN. HUFFMAN: Didn't MALDEF also claim in
19 the Crawford litigation that the Indiana photo ID law
20 disenfranchises minority voters?

21 MR. FIGUEROA: We actually didn't litigate
22 the Crawford litigation. We did submit an amicus brief
23 related to our Arizona litigation, and we were concerned
24 about the impact of Crawford as well as the Arizona
25 legislation and the potential disenfranchising impact.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000674
JA_000673

TX_00000674

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. HUFFMAN: And didn't the Supreme
2 Court of the United States reject your assertions that
3 voter photo ID laws unduly burden the right to vote?

4 MR. FIGUEROA: What the Crawford decision
5 said was it was, one, not a voting rights case. It
6 wasn't a Section 5 case or a Section 2 Voting Rights
7 case. It was a 14th Amendment undue burdens case. And
8 what they essentially held was the burdens that it
9 imposes on voters was not significant enough to cause a
10 violation of the 14th Amendment.

11 SEN. HUFFMAN: Thank you.

12 MR. FIGUEROA: I would state that this
13 bill is more restrictive than the Indiana bill, though.

14 CHAIRMAN DUNCAN: Thank you, Mr. Figueroa.
15 There's no other questions -- oh, I'm sorry.
16 Senator Gallegos has a question.

17 SEN. GALLEGOS: Thank you, Mr. Chairman.
18 Mr. Figueroa, I don't know if you remember my testimony
19 two years ago, and I showed the maps. If we're going to
20 mandate voter ID in Texas, that we should allow the
21 folks that we're mandating access to DPS centers where
22 they get this photo ID. And if you saw inside the 610
23 Loop in Houston, there are no DPS centers.

24 MR. FIGUEROA: That's right.

25 SEN. GALLEGOS: And also -- or inside the

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 820 Loop in Fort Worth there's no DPS centers, and
2 there's only one inside the city of Dallas that would,
3 in fact, make getting, number one, a photo ID costly,
4 and time-consuming. I'm concerned that especially in
5 inner-city Houston and Fort Worth and some there in
6 Dallas that don't have vehicles or use mass transit as a
7 means of transportation that there's no bus lines to the
8 DPS centers --

9 MR. FIGUEROA: That's right.

10 SEN. GALLEGOS: -- that provide the photo
11 ID that we are fixing to mandate them. I wanted to ask
12 your -- you know, whether MALDEF -- you know, would that
13 be subject to any type of retrogression as far as
14 allowing somebody poor or doesn't have a vehicle or
15 can't afford the transportation to the outskirts to try
16 to get a photo ID, that there would be subject to any
17 Section 5 violations in the civil rights code?

18 MR. FIGUEROA: Yeah. Ironical -- the
19 Indiana case did make the one reference that we've been
20 talking about, and the Supreme Court did make
21 significant references to the fact of the free ID
22 provided by Indiana, how to eliminate some of these
23 burdens. However, Indiana, like I mentioned, wasn't a
24 Section 5 state.

25 And that was a larger issue in Georgia

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 where similarly the DPS departments were not in the
2 inner city. So I do think it is a factor that they will
3 consider in preclearance about how accessible is it to
4 obtain that free identification. And in the rural
5 counties of Texas, the inner cities, if it shows that it
6 does have extreme difficulties for minorities to access
7 those free IDs because of the inability to get to a DPS
8 office, the amount of time it takes, the money it takes,
9 the documents it requires to get that free
10 identification, I think that does play an important part
11 of it.

12 SEN. GALLEGOS: So what you're saying
13 is -- your testimony is that it definitely is a factor.
14 And then like -- other than the areas that I mentioned
15 in my district and Fort Worth and Dallas, let's say an
16 area like Senator Uresti's area where in some cases
17 they've got to go 200 miles, you'll have to catch --
18 you'll have to either rent a helicopter or get a
19 Southwest Airlines flight to go, and even though we're
20 offering free ID, you know, the issue is how to get
21 there.

22 MR. FIGUEROA: Yeah.

23 SEN. GALLEGOS: And what I described to
24 you on these instances where, you know, these people
25 cannot provide themselves with -- especially the elderly

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 in these areas, you know, with transportation or don't
2 have the money to provide it, I mean, we can tell them
3 that we have free voter ID available to them if they can
4 get there.

5 MR. FIGUEROA: Right.

6 SEN. GALLEGOS: Is that -- is that what
7 your testimony is here?

8 MR. FIGUEROA: Yes. If they can get
9 there, if they have the means to get there, if they have
10 the documents to get the documentation, absolutely.
11 Free isn't necessarily free.

12 SEN. GALLEGOS: All right. Thank you.

13 CHAIRMAN DUNCAN: Are there any other
14 questions of the witness?

15 (No response)

16 CHAIRMAN DUNCAN: All right. The Chair
17 hears none. Thank you for your testimony, Mr. Figueroa.

18 TESTIMONY BY CHRISTIAN WARD

19 CHAIRMAN DUNCAN: The Chair calls
20 Christian Ward. Mr. Ward, state your name and who you
21 represent, please. You have ten minutes with a --

22 MR. WARD: Thank you, Mr. Chairman.

23 CHAIRMAN DUNCAN: I think it's either a
24 one-minute warning or 30 seconds. I can't remember.

25 SECRETARY SPAW: One.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000678
JA_000677

TX_00000678

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 CHAIRMAN DUNCAN: One-minute warning.

2 MR. WARD: Thank you, Mr. Chairman. My
3 name is Chris Ward. I'm essential here representing
4 myself. I'm an attorney. I'm a partner with the firm
5 of Yetter Coleman. I practice primarily in complex
6 appeals, including regarding constitutional issues and
7 have some expertise and experience in particular in
8 voting rights law, including the 2009 Supreme Court case
9 Northwest Austin MUD v. Holder.

10 I'm here primarily to testify regarding
11 the general constitutional standard as explained by the
12 Supreme Court for analyzing a facial challenge to the
13 validity of a voter ID bill. Before I go into that, I
14 do want to say, because it's come up, that in my reading
15 of the Texas bill, it has an exemption for elderly nuns
16 and any other Texan over 70 whether or not they reside
17 in a nursing home. So that's something that's come up,
18 and I wanted to bring that out.

19 With regard to the legal constitutional
20 standard, the Supreme Court in the case Crawford v.
21 Marion County Election Board examined the Indiana voter
22 ID law, and it went through a very careful analysis of
23 that law, and the essential holding of that law is that
24 a voter ID act is not, in general, constitutionally
25 invalid on its face. And the Indiana law that the court

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000679
JA_000678

TX_00000679

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 was considering at the time it issued the Crawford
2 opinion was at that time considered the most restrictive
3 voter ID law on the books of any state. And so the fact
4 that the Supreme Court found that law constitutional
5 says that there is a lot of room for imposing voter ID
6 laws under the Court's interpretation of the
7 Constitution.

8 There were two primary opinions in the
9 Crawford case. The first one that I'll talk about is
10 considered the main or controlling opinion of the case.
11 It was a case decided by a plurality, which means there
12 were three Justices signed onto one opinion that's
13 regarded as the controlling opinion by Justice Stevens,
14 of course who was one of the most liberal members of the
15 Court. And the other opinion by Justice Scalia also
16 garnered three votes. Justice Stevens' opinion is
17 regarded as the controlling opinion because it -- it
18 puts a little more stricter review, but essentially
19 those two opinions get to the same result by slightly
20 different analysis, which actually on further
21 examination turned out to be somewhat the same.

22 In Justice Stevens' controlling opinion,
23 he first looked -- he first described what the
24 appropriate test would be for a constitutional challenge
25 to an election regulation like a voter ID law, and the

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 test that the Court will apply, he says, is you weigh
2 the asserted injury to the right to vote against the
3 precise interests put forward by the state. So you look
4 at the alleged injury or impairment of the right to
5 vote, the alleged burden imposed by the voter ID
6 requirement, and you compare that with the severity of
7 the harm that the state is trying to avoid.

8 That opinion identifies at least three
9 valid state interests that the state of Indiana was
10 attacking with its voter ID legislation. Number one,
11 deterring and detecting voter fraud, Justice Stevens
12 says that you can't -- nobody can question the
13 importance of detecting and deterring voter fraud.

14 Now, he noted that in that case there was
15 nothing in the record of that case that in-person voting
16 fraud, showing up and impersonating another person, had
17 actually occurred or was a big problem in Indiana, but
18 it was enough that this is a possibility.

19 He tells a story of an associate,
20 Boss Tweed, in New York back during the 1860s, and this
21 associate would send his repeaters. He would recruit
22 men who had whiskers and send them to vote once with a
23 full beard and then send them to a barber and get the
24 chin shaved off and send them back with mutton chops and
25 a mustache and then send them back with just a mustache.

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000681
JA_000680

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 And then if you needed another vote, send them back skin
2 face, it said, plain face, and that makes each one good
3 for four votes.

4 Now, I mention that both because I thought
5 it was a little amusing story, but the more serious
6 point is that the Court looked at this. This is an
7 anecdote from history. This is not saying that a state
8 has to have any showing that this a current modern
9 problem. The Court cites this anecdote as an example of
10 this is a potential problem that a legislature is within
11 its rights to attempt to address by this type of law.

12 Other valid state interests that the Court
13 identified with regard to a voter ID legislation is the
14 improvement and modernization of election procedures.
15 The Court noted that Congress has shown that it believes
16 that photo ID is an effective method of establishing
17 voters' qualifications to vote. The National Voter
18 Registration Act of 1993, also known as the Motor Voter
19 Act, is the act that says when you go to apply for your
20 driver's license, you have to be offered the chance to
21 register to vote. It's also the act -- it also has
22 requirements that limit the states' abilities to purge
23 their voter rolls. So that's one reason why voter rolls
24 tend to have more voters than actually continue to
25 reside in a particular state or a particular

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000682
JA_000681

TX_00000682

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 jurisdiction.

2 The Court also noted the Carter-Baker
3 report, which has also been mentioned in earlier
4 testimony today by Former President Carter and Former
5 Secretary of State James Baker. In that report, they
6 identified photo identification as an appropriate step
7 to take to deter voter fraud.

8 The Court also mentioned safeguarding
9 voter confidence in the system as another valid state
10 interest that is served by a voter ID requirement.

11 Justice Stevens' opinion then looked to
12 the alleged burdens on the right to vote, and he noted
13 that the photo ID requirement imposes some burdens that
14 other identification methods do not. For example, you
15 might lose your driver's license or lose your wallet on
16 the way to the polls and then you'd have a problem. But
17 he noted that these are not serious or frequent enough
18 to cause a constitutional infirmity.

19 And he noted that the relevant burden to
20 be considered here is the burden that is on persons who
21 are eligible to vote but who do not happen to possess a
22 valid photo ID. So you look at the fact that that
23 affects, for one thing, a -- probably a small minority
24 of voters -- of eligible voters in the state already.

25 The Court noted that if you had to pay a